



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

May 8, 2024

Lonnie Olson, Board Chairperson
Village of Brule
PO Box 100
Brule, NE 69127

Dear Mr. Olson:

As you may know, the Nebraska Auditor of Public Accounts (APA) has received concerns regarding, among other things, the questionable expenditure of the Village of Brule's (Village) funds through the use of a Village debit card. As a result, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. Pursuant thereto, the APA obtained financial records and other relevant documentation from the Village. Based on the outcome of this preliminary planning work, including an analysis of the information obtained, the APA has determined that a separate financial audit or attestation is unnecessary at this time.

Nevertheless, during the course of the preliminary planning work, the APA noted certain issues that merit corrective action.

Background Information

The Village of Brule (Village) is located in Keith County, Nebraska. The Village Board of Trustees (Board) is the governing body that exercises financial accountability and control over activities relevant to the operations of the Village. Board members are elected by the public and have broad decision-making authority, including the power to levy taxes and to designate management, the ability to exert significant influence over all Village operations, and the primary responsibility for related fiscal matters.

The following comments and recommendations, which have been discussed with the appropriate members of the Village and its management, are intended to improve internal control or result in other operating efficiencies.

Comments and Recommendations

1. Alleged Misappropriation of Village Funds

Among the concerns brought to the APA's attention were three purchases made with the Village's debit card – two \$500 purchases made at Safeway (a supermarket grocery chain store) in January 2023 and a \$230 payment made to Chappell Family Dentistry (a Dentist based in Chappell, NE) in March 2023. These charges are shown in the following table:

Date	Vendor	Amount
1/27/2023	Safeway	\$500.00
1/27/2023	Safeway	\$500.00
3/24/2023	Chappell Family Dentistry	\$230.00
Total		\$1,230.00

According to Village representatives, the purchases noted above were made by the Village’s Utilities Superintendent, Matthew Emerzian, who did so without full approval from the Board. Each of the two debit card transactions at Safeway, totaling \$1,000, were for the purchase of a \$500 gift card – neither of which was remitted to the Village or appear to have been used for municipal purposes. The \$230 charge to Chappell Family Dentistry was for a teeth cleaning dentist visit. The APA was informed that the Utilities Superintendent had asked the Board Chairman at the time to use the Village’s purchasing card for this purchase due to an issue with his insurance, and he received verbal approval from the Chairman to do so. In fact, according to the Utilities Superintendent, most of the debit card purchases that he makes are based solely upon verbal approval by the Board Chairman and not approved at Board meetings, preferably prior to the expenditure, as required by statute.

The Village required the Utilities Superintendent to make reimbursements for these purchases. While the Village lacked supporting documentation to confirm repayment of these expenses, a review of the municipal check registers and bank statements appears to show that deductions in his pay were made to reimburse the Village.

A \$1,000 deduction for a “Miscellaneous Expense” was taken out of the Utilities Superintendent’s January 30, 2023, payroll check – ostensibly, as reimbursement for the two Safeway purchases:

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
01-203	FICA Withheld	(159.13)
01-204	FIT Withheld	(218.00)
01-205	SIT Withheld	(104.00)
01-206	Child Support	(271.00)
01-601	Wages	551.58
02-601	Wages	551.58
02-631	Miscellaneous Expense	(1,000.00)
03-601	Wages	551.58
04-601	Wages	551.58
		454.19

Report Setup
 Report selection: Check Register - Account Summary
 Banks: Single
 Bank Acct#: [REDACTED]
 Starting Check Number: 23798
 Ending Check Number: 23798
 Starting Date: 1/30/2023

A \$230 deduction was then taken out of his April 15, 2023, payroll check – for the apparent purpose of reimbursing the Chappell Family Dentistry payment:

<u>Check #</u>	<u>Date</u>	<u>Acct#</u>	<u>Name</u>	<u>Amount</u>
23878	4/15/2023	PAYROLL	[REDACTED]	1,224.19
	01-203	MEDICARE	04152023	(30.08)
	01-203	FICA	04152023	(129.05)
	01-204	FEDERAL	04152023	(218.00)
	01-205	STATE	04152023	(104.00)
	01-601	PAYROLL 4/15/2023	04152023	551.58
	01-605	DENTAL INSURANCE	04152023	(230.00)
	03-601	PAYROLL 4/15/2023	04152023	551.58
	04-601	PAYROLL 4/15/2023	04152023	551.58
	02-601	PAYROLL 4/15/2023	04152023	551.58
	01-206	CHILD SUPPORT	04152023	(271.00)
			Total Non-Void Checks	1,224.19

Report Setup
 Report selection: Check Register - Detail
 Banks: Single
 Bank Acct#: [REDACTED]
 Starting Check Number: 23878
 Ending Check Number: 23878
 Starting Date: 4/13/2023

Regardless of whether they were ultimately reimbursed, the APA takes issue with these unauthorized purchases made with the Village's debit card. The expenditure of \$1,000 in public funds to purchase two Safeway gift cards should not have occurred without prior Board approval. In addition, the \$230 payment for dental cleaning is a personal purchase and should not have been made with Village funds, with or without Board approval.

The information presented above points to the apparently unauthorized expenditure of Village funds by Mr. Emerzian for his own personal benefit, giving rise to serious statutory concerns.

To start, Neb. Rev. Stat. § 17-614(1)(a) (Supp. 2023) 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 elected members of the city council in a city of the second class or village board of trustees. . . .

Moreover, Neb. Rev. Stat. § 13-610(2) (Reissue 2022) requires a political subdivision's purchasing card to be used for the exclusive benefit of that governmental entity, as follows:

Any political subdivision may utilize its purchasing card program for the purchase of goods and services for and on behalf of the political subdivision.

In addition, Neb. Rev. Stat. § 28-511 (Reissue 2016) provides, in relevant part, the following:

(1) A person is guilty of theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person is guilty of theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

As for the apparent misuse of the Village debit card specifically, Neb. Rev. Stat. § 28-512(4) (Reissue 2016) provides the following as is relevant:

A person commits theft if he obtains property of another by deception. A person deceives if he intentionally:

** * * **

(4) Uses a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (a) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, or (b) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument.

(Emphasis added.) Moreover, Neb. Rev. Stat. § 49-14,101.01(2) (Reissue 2021) of the Nebraska Political Accountability and Disclosure Act, as set out at Neb. Rev. Stat. §§ 49-1401 to 49-14,142 (Reissue 2021, Cum. Supp. 2022), places the following restriction upon the use of property under the "official care and control" of a public official or public employee:

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.

Per subsection (7) of that same statute, "[A]ny person violating this section shall be guilty of a Class III misdemeanor"

Thus, the misuse of municipal resources for personal gain is strictly prohibited under State law.

These potential statutory concerns aside, it should be noted that good internal controls and sound accounting practices require procedures to ensure that one person is not in a position both to perpetrate and to conceal financial errors or irregularities, including fraud.

Without such procedures, there is an increased risk for fraud or the misappropriation of funds.

We recommend the Board implement procedures to ensure purchases made with the Village’s purchasing card are properly approved and made only for appropriate municipal purposes. Additionally, because this comment gives rise to concerns regarding possible violations of State statute, we are forwarding the information herein to the Nebraska Attorney General, the Keith County Attorney, and the Nebraska Accountability and Disclosure Commission for further review.

2. Other Debit Card Issues

In addition to the transactions described in **Comment and Recommendation Number 1** (“Alleged Misappropriation of Village Funds”) herein, the APA noted that 130 other questionable purchases, totaling \$18,795.91, were made with the Village’s debit card during the period October 1, 2021, through September 30, 2023. Upon inquiry with municipal representatives, the APA was informed that, in addition to the Village’s Utilities Superintendent, Matthew Emerzian, the Village Clerk, Vicki Malmkar, also had access to the frequently used purchasing card.

The APA identified the following issues with the Village’s debit card procedures:

Other Questionable Debit Card Purchases

As mentioned previously, the APA noted 130 other questionable transactions, totaling \$18,795.91, made with the Village’s debit card. Those charges are summarized in the following table:

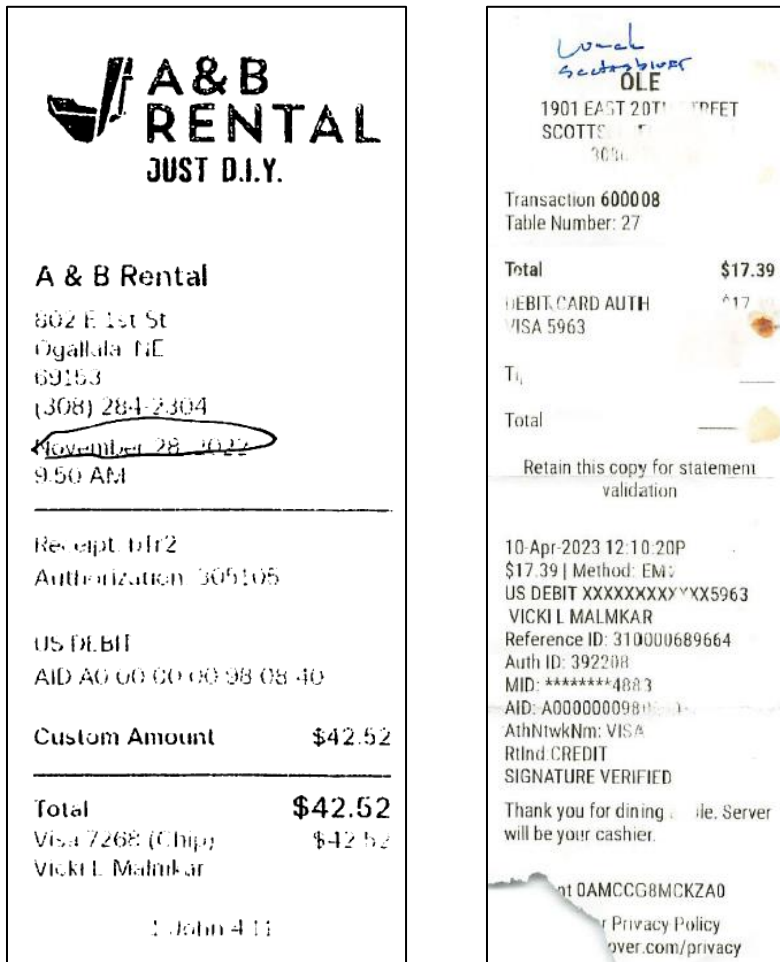
Vendor	Number of Transactions	Amount
Ace Hardware	8	\$517.34
Ebay	4	\$2,785.42
HAAS Tire	3	\$3,473.95
Harbor Freight	1	\$629.99
Hydraulic Net, Inc.	2	\$1,553.21
Inverter Supply	1	\$1,379.33
Shoplet.com	1	\$850.62
USPS	8	\$1,005.35
Walmart	7	\$1,059.82
Other Questionable Vendors Note	95	\$5,540.88
Totals	130	\$18,795.91

Note: The APA included vendors with dubious payments totaling less than \$500 each in the “Other Questionable Vendors” line item.

Out of these 130 questionable transactions, 113 purchases, totaling \$14,514.69, lacked adequate supporting documentation, as detailed in the following table:

Number of Transactions	Amount	Notes
17	\$4,281.22	Adequate Support
2	\$59.91	Inadequate Support
111	\$14,454.78	No Support
130	\$18,795.91	Totals

Shown below are examples of the inadequate support – namely, receipts lacking purchase details – provided for two transactions:



Neb. Rev. Stat. § 13-610(4) (Reissue 2022) requires all purchases with a political subdivision’s purchasing card to be supported by an itemized receipt, as follows:

An itemized receipt for purposes of tracking expenditures shall accompany all purchasing card purchases. In the event that a receipt does not accompany such a purchase, purchasing card privileges shall be temporarily or permanently suspended in accordance with rules and regulations adopted and promulgated by the political subdivision.

(Emphasis added.) Although the Village was able to provide adequate documentation to support 17 of the 130 transactions at issue, the APA is still including those expenditures in the total amount of questionable charges because, like the rest of the debit card transactions, they were not included on the claims listing to be approved by the Board.

Depending upon the circumstances surrounding these additional questionable debit card purchases, the same statutory concerns cited in **Comment and Recommendation Number 1** (“Alleged Misappropriation of Village Funds”) herein, including the need for prior Board approval for the payment of municipal funds, could become an issue.

Good internal control requires procedures to ensure that proper documentation – including itemized receipts for purchases made with the Village’s purchasing card – is maintained for all disbursement transactions.

Lack of Purchasing Card Policy

The Village lacked a written purchasing card policy that not only specified allowable purchases and authorized users but also outlined procedures for safeguarding Village assets when using a municipal credit or debit card.

With the use of a debit card, the Village increases its risk of unrecoverable loss of funds due to fraud because such cards do not provide as much fraud protection as a credit card or other types of purchasing cards. The Village also increases its risk of payments being made without Board approval because expenditures with the debit card do not require dual signatures for approval.

Neb. Rev. Stat. § 13-610 (Reissue 2022) provides, in relevant part, the following requirements for a political subdivision’s purchasing card program:

(1) A political subdivision, through its governing body, may create its own purchasing card program. The governing body shall determine the type of purchasing card or cards utilized in the purchasing card program and shall approve or disapprove those persons who will be assigned a purchasing card. Under the direction of its governing body, any political subdivision may contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating the purchasing card program on behalf of the political subdivision. Expenses associated with the political subdivision’s purchasing card program shall be considered, for purposes of this section, as an administrative or operational expense.

* * * *

(4) An itemized receipt for purposes of tracking expenditures shall accompany all purchasing card purchases. In the event that a receipt does not accompany such a purchase, purchasing card privileges shall be temporarily or permanently suspended in accordance with rules and regulations adopted and promulgated by the political subdivision.

* * * *

(6) No officer or employee of a political subdivision shall use a political subdivision purchasing card for any unauthorized use as determined by the governing body.

Ensuring that Village purchasing cards are used only for authorized purposes, or the privilege of their use is properly suspended, as required by law, is difficult, if not impossible, without formal municipal guidelines or, as referenced in statute, “rules and regulations adopted and promulgated by the political subdivision” to establish the parameters for such legitimate use.

Good internal control requires written guidelines for the proper use of the Village’s purchasing cards, including formal designation of both the authorized users and the allowable uses thereof.

Payment of Sales Tax

During our examination of the Village’s limited supporting documentation for its debit card purchases, the APA noted that the Village paid a total of \$173.66 in Nebraska sales tax.

Per Neb. Rev. Stat. § 77-2704.15(1)(a) (Cum. Supp. 2022), purchases made by the State or its political subdivisions are exempt from sales tax, as follows:

Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village . . .

Good internal control requires procedures to ensure that sales taxes are not paid on municipal purchases.

Purchases Made After Debit Card Discontinuance

According to the minutes of its May 9, 2023, meeting, the Board voted to discontinue use of the municipal debit card at that time. Examination of the Village’s bank statements revealed, however, that three debit card purchases were made subsequent to that meeting.

The table below lists these three post-discontinuation transactions, which total \$105.86:

Date	Vendor	Amount
5/11/2023	Gulf Oil	\$50.00
5/11/2023	Menards	\$31.88
5/22/2023	Bomgaars	\$23.98
Total		\$105.86

The ongoing use of the discontinued Village debit card is particularly problematic in light of the fact that such card must be authorized by Board. Neb. Rev. Stat. § 13-610(1) (Reissue 2022) states clearly, “A political subdivision, through its governing body, may create its own purchasing card program.” Without such express authorization – or, as in this case, when such authorization has been revoked – use of a purchasing card by or on behalf of a political subdivision is disallowed by law.

Good internal control requires procedures to ensure that the Village’s purchasing card is not used after its discontinuance by the Board.

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 the following: 1) proper documentation – including itemized receipts for purchases made with the Village’s purchasing card – is maintained for all disbursement transactions; 2) a formal purchasing card policy is implemented to outline procedures for the proper use of the Village’s cards, including designation of allowable purchases and authorized signers; 3) the Village does not pay Nebraska sales tax; and 4) the Village’s purchasing card is not used after its discontinuance.

3. Potentially Disallowed Payments

Additional concerns brought to our attention include the handling of funds received from the dissolution of the Brule Housing Authority (Authority).

On October 13, 2020, the Authority signed a resolution approving the dissolution of that entity and the transfer of all its assets and liabilities to the Village. According to the resolution, the Village was authorized to receive a check from the Authority, which was to be deposited into the municipal bank account. Although the Village was designated to receive the funds from the dissolution, the Authority requested that the funds be distributed to three entities, including the Brule Lions Club, the Brule Community Center, and the Brule Rural Fire District.

A memo that the Authority sent to the Village requesting this distribution is shown below:

To: Brule Village Board
 Re: Funds from sale of Heritage Village
 From: Brule Housing Authority P.O. Box 114 Brule NE

As you know, the Brule Housing Board decided to put our complex up for sale last fall. We set a minimum bid and were pleasantly surprised when it sold quickly! This led to a new problem-what do we do with the money? We are submitting the following proposal for your approval. We had two criteria that had to be met. The funds could only be used in the Brule area and it would benefit the most Brule citizens as possible. The three following organizations stood out. The Brule Lions renovation of the Brule Community Hall, upgrades to the Brule Community Center to increase rentals and the efficient operation of the building and the Brule Fire Department for any needed equipment. It is our understanding the money needs to be given to a 501c3 or a public entity that has a yearly audit and then passed through to the final benefactor. The Lions Club is in the process of doing this with the grant from the KCFE so we have a template to follow. Currently we have \$129,000.

The funds will be divided as follows:
 \$ 50,000 to the Brule Lions
 \$ 50,000 to the BCCA
 \$ 25,000 Brule Fire Department

As far as we know, all bills have been paid to this point! Any funds remaining beyond the \$125,000 after all final expenses are paid we request would go to the Brule Vol Fire Dept. We think these three groups are the best fit for meeting our criteria!!! Thank you for your consideration in this matter.

The anticipated disbursement noted in the memo was \$129,000; however, the final payment of funds from the dissolution was \$130,172.11, which was deposited into the Village's bank account on November 12, 2020.

Following the request submitted by the Authority, the Village paid the Brule Lions Club, a non-profit corporation, \$50,000 in August 2021. This money was to be used by the Brule Lions Club to renovate the Brule Community Hall. In examining the Village's bank statements for the period January 1, 2021, through December 31, 2023, the APA noted that three additional payments were made to the Brule Lions Club, totaling \$1,265.66.

The following table summarizes the payments to the Brule Lions Club:

Check #	Check Date	Cleared Date	Payee	Amount
23168	8/23/2021	8/24/2021	Brule Lions Club	\$50,000.00
23086	6/23/2021	6/29/2021	Brule Lions Club	\$177.86
23136	8/8/2021	8/13/2021	Brule Lions Club	\$87.80
23352	1/27/2022	2/23/2022	Brule Lions Club	\$1,000.00
Total				\$51,265.66

In addition, the APA noted the following two payments, totaling \$1,000, to other organizations; both disbursements appear also to be for donations. These payments are listed in the table below:

Check Date	Payee	Check #	Amount	Notes
2/9/2021	Keith County Chamber of Commerce	22930	\$500.00	Do It Program Donation
2/9/2021	Keith County Housing Development Corp	22931	\$500.00	Donation
Total			\$1,000.00	

The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022), 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 (Reissue 2022). Nowhere in the Act is provision made for the donation of public funds.

Additionally, the APA’s examination of other statutes applicable to the Village failed to identify any specific legislative grant of authority for making the type of payments addressed herein.

According to the Nebraska Supreme Court, the authority of a political subdivision, such as the Village, is restricted to those powers legislatively bestowed by statute, as follows:

The well-settled rule in this jurisdiction is that a municipal corporation possesses, and can exercise, the following powers and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; and third, those essential to the declared objects and purposes of the corporation-- not simply convenient, but indispensable.

Professional Firefighters of Omaha, Local 385 v. City of Omaha, 243 Neb. 166, 174, 498 N.W.2d 325, 331 (1993). Good internal control requires procedures to ensure that the Village acts strictly within the parameters of the statutory authority granted to it, avoiding an action in contravention of such authority.

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

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

4. Unapproved Pay Rates

For the period October 1, 2021, through September 30, 2023, the Village Utilities Superintendent, Matthew Emerzian, and the Village Clerk, Vicki Malmkar, received the following gross pay:

Fiscal Year	Matthew Emerzian Total Gross Pay	Vicki Malmkar Total Gross Pay
2022	\$42,116.14	\$12,177.88
2023	\$52,202.16	\$17,090.16
Totals	\$94,318.30	\$29,268.04

During our examination of their payroll, the APA observed several pay increases, ranging from 6% to 42%, that do not appear to have been discussed, voted on, or approved by the Board.

Matthew Emerzian			Vicki Malmkar		
Beginning of Pay Period	Gross Pay Amount	% Increase in Wages	Beginning of Pay Period	Gross Pay Amount	% Increase in Wages
10/1/2021	\$1,633.84	Note	10/1/2021	\$453.56	Note
1/1/2022	\$1,737.42	6%	1/1/2022	\$480.78	6%
8/1/2022	\$2,081.40	20%	8/1/2022	\$681.40	42%
1/1/2023	\$2,206.32	6%	1/1/2023	\$722.32	6%

Note: This amount represents the base pay for the period examined.

As shown in the table above, both Village employees received three pay increases of varying amounts during fiscal years 2022 and 2023. The APA examined the Board meeting minutes available from this time period and failed to find any documented Board approval of these pay increases. Because the Village Board appears not to have approved any pay increases to either employee, both the Village Utilities Superintendent and Village Clerk should have continued to be paid at their base pay amount. If the Utilities Superintendent continued to be paid at his base

gross pay amount of \$1,633.84 per semi-monthly pay period, he would have received \$78,424.32 for fiscal years 2022 and 2023, which is \$15,893.98 less than what was actually received. Similarly, the Clerk should have received payment at her base gross pay amount of \$453.56 per semi-monthly pay period during fiscal years 2022 and 2023, for a total of \$21,770.88, a difference of \$7,497.16. In total, the Village paid \$23,391.14 in excess of the base pay rates for these two employees during the period.

Good internal controls require procedures to ensure that employees receive compensation only in amounts officially authorized and approved by the Board. Those same procedures should ensure that payroll is formally reviewed for accuracy and reasonableness.

Without such procedures there is an increased risk for loss or misuse of public funds.

We recommend the Board implement procedures to ensure employees receive compensation only in the amounts approved by the Board. We also recommend the Board review employee pay to ensure payments are accurate and reasonable.

5. Reimbursement Payments

For the period October 1, 2021, through September 30, 2023, the Village Utilities Superintendent, Matthew Emerzian, received the following reimbursement payments:

Fiscal Year	Total Reimbursement Payments
2022	\$3,292.01
2023	\$1,550.00
Total	\$4,842.01

The APA noted the following issues related to these reimbursement payments.

Uniform Allowance for Utilities Superintendent

When examining the supporting documentation for reimbursement payments to the Village Utilities Superintendent, the APA noted that he received a “boot allowance” of \$150 in both March and April 2023, for a total of \$300.

Images of the check stubs for both payments are shown below:

STATE OF NEBRASKA KEITH COUNTY VILLAGE OF BRULE			23852
To: EMERIZAN, MATTHEW*	03/15/2023		Check # 23852 \$300.00
03152023	BOOT ALLOWANCE	\$50.00	
03152023	WATER SAMPLE TO SCOTTS	\$150.00	
03152023	BOOT ALLOWANCE	\$50.00	
03152023	BOOT ALLOWANCE	\$50.00	

STATE OF NEBRASKA KEITH COUNTY VILLAGE OF BRULE			23880
To: EMERIZAN, MATTHEW*	04/17/2023		Check # 23880 \$300.00
03152023	BOOT ALLOWANCE	\$50.00	
03152023	WATER SAMPLE TO SCOTTS	\$150.00	
03152023	BOOT ALLOWANCE	\$50.00	
03152023	BOOT ALLOWANCE	\$50.00	

It is the APA's understanding that work clothes and uniform allowances and reimbursements should be considered "fringe benefits" per Internal Revenue Service (IRS) guidelines. IRS Publication 5137 (Rev. 10-2022) offers guidance to employers regarding certain fringe benefits, including uniform allowances or reimbursements.

Publication 5137 describes "Work Clothes and Uniform Allowances and Reimbursements" as follows:

*Periodic allowance payments made to employees for the purchase and maintenance of specific articles of **employer-required** uniforms are not taxable to the employees to the extent that the allowances are used to pay for uniforms that are not adaptable to general use and are not worn for general use, and the employees substantiate the expenses. If the employer does not require substantiation, the allowance is taxable as wages and subject to withholding when paid.*

Based on this guidance, proper documentation must be submitted in order to ensure that the allowance was both for "employer-required" articles and spent on qualifying purchases (e.g., items "that are not adaptable to general use and are not worn for general use"). If such support is not provided, this allowance should be included in the Utilities Superintendent's taxable wages.

It should be noted also that the second check (#23880) shown above appears to have been a duplicate payment, as the dates, amounts, and descriptions are the same as those shown on the previous check (#23852).

Finally, the Village appears to lack a formal policy or guidelines, as adopted by the Board, for employee uniform allowances or reimbursements.

Good internal control requires procedures to ensure that all provisions for employee fringe benefits, including uniform allowances or reimbursements, are specified in written policies or agreements formally approved by the Board. Those same procedures should provide for not only determining whether fringe benefits given to Village employees must be included in their taxable wages but also for the prevention of duplicate payments.

Lack of Supporting Documentation

In addition to the "boot allowance" payments, the municipal Utilities Superintendent received reimbursements for mileage and other expenses that he incurred on the Village's behalf. However, the Village was unable to provide adequate documentation, such as mileage logs, receipts, or invoices, to support any of these reimbursements.

Good internal controls require procedures to ensure that adequate supporting documentation is available for all disbursements of municipal funds, including reimbursement payments.

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

We recommend the implementation of procedures to ensure the following: 1) all provisions for employee fringe benefits, including uniform allowances or reimbursements, are specified in written policies or agreements formally approved by the Board; 2) a determination is made regarding whether fringe benefits provided to Village employees must be included in their taxable wages; 3) duplicate payments are prevented; and 4) adequate supporting documentation is available for all disbursements of municipal funds, including reimbursement payments.

6. Non-Payment of Bond Principal

The Village had the following three sources of long-term debt for the period October 1, 2021, through September 30, 2023:

2% NDEE Loan. This is a Sewer Fund note payable to the Nebraska Department of Environment and Energy (NDEE). It is due in semi-annual installments of \$1,784, including interest at 2%, through June 15, 2031.

3% NDEE Loan. This is a Sewer Fund note payable to NDEE. It was due in semi-annual installments of \$4,374, including interest at 3.0%, through December 15, 2023.

2% and 3% NDEE Loan Debt Service Schedule			
Fiscal Year	Principal	Interest	Total
2022	\$11,021.00	\$1,178.00	\$12,199.00
2023	\$11,325.00	\$870.00	\$12,195.00
2024	\$7,265.00	\$558.00	\$7,823.00
2025	\$3,015.00	\$433.00	\$3,448.00
2026	\$3,075.00	\$373.00	\$3,448.00
2027-2031	\$16,326.00	\$912.00	\$17,238.00
Totals	\$52,027.00	\$4,324.00	\$56,351.00

Series 2019 General Obligation Water Refunding Bonds. The Village issued bonds on October 15, 2019, in the amount of \$395,000 for the purpose of refunding the Village’s Series 2012 General Obligation Water Refunding Bonds and paying certain costs of issuance.

Fiscal Year	Principal	Interest	Total
2020	\$-	\$1,197.28	\$1,197.28
2021	\$35,000.00	\$9,370.00	\$44,370.00
2022	\$35,000.00	\$8,670.00	\$43,670.00
2023	\$30,000.00	\$7,970.00	\$37,970.00
2024	\$30,000.00	\$7,370.00	\$37,370.00
2025	\$30,000.00	\$6,770.00	\$36,770.00
2026	\$30,000.00	\$6,080.00	\$36,080.00
2027	\$35,000.00	\$5,390.00	\$40,390.00
2028	\$35,000.00	\$4,585.00	\$39,585.00
2029-2032	\$135,000.00	\$9,520.00	\$144,520.00
Totals	\$395,000.00	\$66,922.28	\$461,922.28

While the Village was making payments on all three of these debt sources, an examination of the municipal bank statements indicates that the Village has not made any principal payments on the water bond since its issue; instead, the Village has made only interest payments thereon.

The lack of principal payments on the water bond was disclosed also in the Village’s fiscal year 2021 and 2022 audit reports.

In addition to the Village’s failure to make payments towards the water bond’s principal, the interest payments made do not agree to the debt service schedule shown above. Instead, the amounts paid by the Village for both fiscal years 2022 and 2023 appear to have been based on the fiscal year 2021 interest amount. Consequently, for both subsequent years alone, the Village underpaid \$62,900 on the bond.

Fiscal Year	Amount Due	Amount Paid	Underpaid
2022	\$43,670.00	\$9,370.00	\$34,300.00
2023	\$37,970.00	\$9,370.00	\$28,600.00
Totals	\$81,640.00	\$18,740.00	\$62,900.00

According to the Village’s adopted fiscal year 2022 budget, as shown below, a total of \$44,000 was budgeted under “Debt Service – Water,” supposedly for bond payments.

Village of Brule, Nebraska in Keith County

Line No.	2021-2022 ADOPTED BUDGET Disbursements & Transfers	Operating Expenses (A)	Capital Improvements (B)	Other Capital Outlay (C)	Debt Service (D)	Other (E)	Transfers Out (F)	TOTAL
1	Governmental:							
2	General Government	\$ 71,350.00						\$ 71,350.00
3	Public Safety - Police and Fire	\$ 46,000.00						\$ 46,000.00
4	Public Safety - Other							\$ -
5	Public Works - Streets	\$ 54,400.00	\$ 23,500.00	\$ 23,900.00				\$ 101,800.00
6	Public Works - Other							\$ -
7	Public Health and Social Services							\$ -
8	Culture and Recreation	\$ 14,750.00						\$ 14,750.00
9	Community Development							\$ -
10	Miscellaneous							\$ -
11	Business-Type Activities:							
12	Airport							\$ -
13	Nursing Home							\$ -
14	Hospital							\$ -
15	Electric Utility							\$ -
16	Solid Waste	\$ 51,200.00	\$ 15,600.00		\$ 13,000.00			\$ 79,800.00
17	Transportation							\$ -
18	Wastewater							\$ -
19	Water	\$ 52,200.00	\$ 45,000.00		\$ 44,000.00			\$ 141,200.00
20	Other							\$ -
21	Proprietary Function Funds (Page 6)					\$ -		\$ -
22	Total Disbursements & Transfers (Ln 2 thru 21)	\$ 289,900.00	\$ 84,100.00	\$ 23,900.00	\$ 57,000.00	\$ -	\$ -	\$ 454,900.00

Nevertheless, according to the fiscal year 2024 budget form filed with our office, the Village’s actual disbursements in fiscal year 2022 for “Debt Service – Water” was only \$9,370, which agrees to the amount shown on the municipal bank statements.

Village of Brule in Keith County

Line No.	2021-2022 ACTUAL Disbursements & Transfers	Operating Expenses (A)	Capital Improvements (B)	Other Capital Outlay (C)	Debt Service (D)	Other (E)	Transfers Out (F)	TOTAL
1	Governmental:							
2	General Government	\$ 87,654.96						\$ 87,654.96
3	Public Safety - Police and Fire	\$ 52,774.91						\$ 52,774.91
4	Public Safety - Other	\$ -						\$ -
5	Public Works - Streets	\$ 95,410.50						\$ 95,410.50
6	Public Works - Other	\$ -						\$ -
7	Public Health and Social Services	\$ -						\$ -
8	Culture and Recreation	\$ 9,005.71						\$ 9,005.71
9	Community Development	\$ -	\$ 39,452.65					\$ 39,452.65
10	Miscellaneous	\$ -						\$ -
11	Business-Type Activities:							
12	Airport	\$ -						\$ -
13	Nursing Home	\$ -						\$ -
14	Hospital	\$ -						\$ -
15	Electric Utility	\$ -						\$ -
16	Solid Waste	\$ 53,184.02			\$ 12,689.10			\$ 65,873.12
17	Transportation	\$ -						\$ -
18	Wastewater	\$ -						\$ -
19	Water	\$ 42,669.04			\$ 9,370.00			\$ 52,039.04
20	Other	\$ -						\$ -
21	Proprietary Function Funds							\$ -
22	Total Disbursements & Transfers (Ln 2 thru 21)	\$ 340,699.14	\$ 39,452.65	\$ -	\$ 22,059.10	\$ -	\$ -	\$ 402,210.89

Based on the Village’s budgeted disbursements and transfers for fiscal year 2022, as shown above, the Village appears to have budgeted for the bond payments for that year, but simply did not make them. For fiscal year 2023, the Village budgeted \$44,000 again for the bond debt service expenditures; however, the Village made only two payments of \$4,685 each, for a total of \$9,370, during the year.

By making no bond principal payments, as well as underpaying the interest owed, the Village continues to accrue interest on both the unpaid principal amount and the actual interest specified in the debt service schedule.

According to Village representatives, the Board is aware of the lack of bond principal payments and has approved a motion to make a \$67,000 bond payment during the March 12, 2024, Board meeting in an effort to address this issue.

Good internal controls require procedures to ensure the timely and accurate payment of long-term debt service, including both principal and interest due, in order to prevent the Village from accruing any unnecessary additional interest costs.

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

We recommend the Board implement procedures to ensure the timely and accurate payment of long-term debt service, including both principal and interest due, in order to prevent the Village from accruing any unnecessary additional interest costs.

7. Other Issues

In addition to the debit card, potentially disallowed payments, payroll and reimbursements, and bond payment issues described in the previous comments herein, the APA noted the following issues related to municipal operations:

Signature Issues

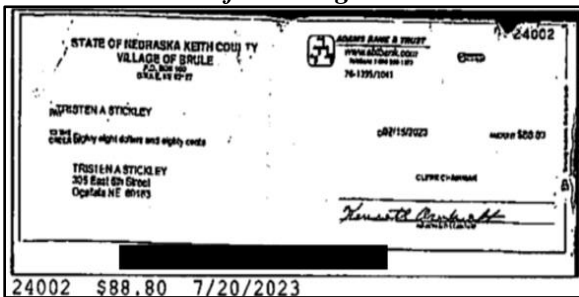
The APA obtained the Village’s bank statements for the period October 1, 2021, to September 30, 2023. While examining those banking records, the APA noted several issues regarding signatures on Village checks written during the examination period.

The following table details the signature issues noted:

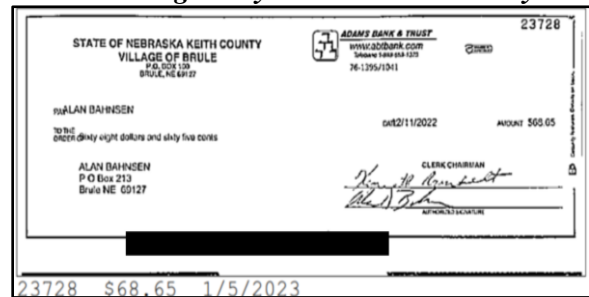
Issues	Number of Checks	Amount
Lack of Dual Signatures	7	\$6,888.23
Signed by Board Members Only	2	\$114.83
Signed by Clerk and Board Member	599	\$453,163.87
Totals	608	\$460,166.93

Shown below are images of Village checks with examples of the signature issues noted:

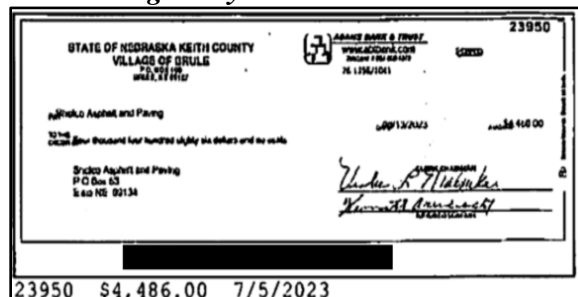
Lack of Dual Signatures



Check Signed by Board Members Only



Check Signed by Clerk and Board Member



Neb. Rev. Stat. § 17-711 (Reissue 2022) requires Village checks to be signed by both the Chairperson of the Board and the Village Clerk, as follows:

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.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that Village checks contain the statutorily required endorsements.

Lack of Claim Purpose

During our comparison of the Village’s bank account details to claims approved by the Board, the APA observed the Board meeting minutes dated September 12, 2023, and noted that the claims listed therein lacked descriptions of their respective purposes.

The following is an excerpt of the approved claims listing provided by the Village for September 12, 2023:

ALAN BAHNSEN - 68.65, ATC COMMUNICATIONS - 157.88, KENNETH ARMKNECHT - 46.18, BOMGAARS - 28.99, 13.28, BRULE ACTIVITY CENTER - 175.00, TIM DIAZ - 1500.00, EDWARD SMITH - 46.18, ENVIRO SERVICE INC - 25.00, 264.00, FRASER WELDING, LLC. - 327.75, MIKE GIBSON -46.18, JOHNSON SERVICE COMPANY - 13732.30, JOSH HOOVER - 849.20, League Association of Risk Management - 17432.00, VICKI MALMKAR - 578.22, 578.22, MATTHEW EMERZIAN - 1454.19, 1454.19, BRIAN MCNEFF - 46.18, Nebraska Child Support Payment Center - 271.00, 271.00, Nebraska Municipal Power Pool - 618.32, Nebraska Printworks - 15.40, 291.32, NPPD - 742.55, 31.85, 41.03, 31.58, 623.39, 31.58, 31.58, 462.04, 31.58, Nebraska Rural Water Association - 250.00, One Call Concepts, Inc. - 17.86, 4.34, KEVIN TJADEN - 950.00, UNITED STATES POSTAL SERVICE - 204.00, 58.40, WEST CENTRAL DEVELOPMENT DISTRICT - 868.00, WIEST HARDWARE - 23.37, WASTE CONNECTIONS OF NE, INC. - 35.50, 66.03. Total - 44795

A motion to pay the billings as presented Ken Armknecht and seconded by Brian McNeff. Yeas: Bahnsen, Armknecht, Gibson, McNeff. Nays: None. Carried.

It is also important to note that a majority of the Village claims listings prior to September 2023 also lacked descriptions of their respective purposes. Additionally, not all claims listed in those Board meeting minutes appear to have actually cleared the bank; instead, they may have been merely copied from previous claims listings, which seem to have been used as a template of sorts.

The following are examples of the approved claims listings provided by the Village for the May 9, 2023, and June 13, 2023, Board meetings:

ALAN BAHNSEN 68.65 ATC COMMUNICATIONS 157.84 KENNETH ARMKNECHT 46.18 BLACK HILLS ENERGY 8.30, 123.34, BRULE ACTIVITY CENTER 175.00, 175.00 CORNHUSKER GLASS 31.74 EDWARD SMITH 46.18 ENVIRO SERVICE INC 233.00 MIKE GIBSON 46.18 KWIK STOP 198.55, 194.12 VICKI MALMKAR 578.22, 578.22 MATTHEW EMERZIAN 1454.19, 1454.19 BRIAN MCNEFF 46.18 Nebraska Child Support Payment Center 271.00 June, 271.00 NPPD 92.02, 31.85, 742.55, 310.42, 659.92, 31.58, 31.58, 31.58, 31.58 OFFICE SERVICE 88.11 TWOMEY TREE SERVICE 1400.00 USA BLUE BOOK 806.43 WIEST HARDWARE 28.92.

ALAN BAHNSEN 68.65, ATC COMMUNICATIONS 157.84, **KENNETH ARMKNECHT 46.18** BLACK HILLS ENERGY 8.30, 123.34, BRULE ACTIVITY CENTER 175.00, 175.00, **CORNHUSKER GLASS 31.74**, EDWARD SMITH 46.18, **ENVIRO SERVICE INC 233.00** Mike Gibson, Ed Smith, Brian McNeff, Kenneth Armknecht 46.18, MIKE GIBSON 46.18, KWIK STOP 198.55, 194.12, VICKI MALMKAR 578.22, 578.22 MATTHEW EMERZIAN 1454.19, 1454.19, BRIAN MCNEFF 46.18, Nebraska Child Support Payment Center 271.00 , 271.00, NPPD 92.02, 31.85, 742.55, 310.42, **659.92, 31.58, 31.58, 31.58, 31.58 OFFICE SERVICE 88.11 TWOMEY TREE SERVICE 1400.00, USA BLUE BOOK 806.43, WIEST HARDWARE 28.92.**

As can be seen in the above excerpts, the claims highlighted in red on the June 13, 2023, approved claims listing had previously been included in the May 9, 2023, approved claims listing.

Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2022) of the Open Meetings Act (Act), which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2022), requires political subdivisions and other public entities to “keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.” (Emphasis added.)

Additionally, 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.) Good internal control and sound accounting practices require procedures to ensure that the Board’s meeting minutes describe the purpose of each claim allowed.

Meeting Proceedings Not Published

The APA noted that the Village appears to have routinely failed to publish the “official proceedings” of the Board’s regular monthly meetings during the period October 1, 2022, through September 30, 2023, as required by State statute.

During this period, the Village made only four payments, totaling \$438.54, as shown in the following table:

Check Date	Check #	Vendor	Description	Amount
10/11/2022	23681	Keith County News	Budget	\$157.50
1/8/2023	23784	Keith County News	Vacant Board Member Position	\$15.70
2/12/2023	23816	Keith County News	Ad for Board Member Position	\$160.03
8/8/2023	24037	Keith County News	Legal Posting of Budget Workshop	\$105.31
Total				\$438.54

As noted above, Neb. Rev. Stat. § 19-1102 (Reissue 2022) requires publication of the Board’s official proceedings “within thirty days after any meeting of the . . . village board of trustees.”

Good internal control and sound accounting practices require procedures to ensure that the Board’s official proceedings are published in accordance with statutory requirements.

Payment of Unapproved Claims

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified 165 disbursements, totaling \$117,883.27, that were paid but not included on the claims listing prepared for Board approval.

The total monthly numbers and corresponding amounts of the unapproved claims noted for the period October 1, 2022, to September 30, 2023, are shown in the table below:

Month	Number of Unapproved Claims	Amount Unapproved
October 2022	13	\$7,504.31
November 2022	18	\$3,917.70
December 2022	23	\$14,669.37
January 2023	16	\$8,878.31
February 2023	4	\$1,165.77
March 2023	16	\$5,624.63
April 2023	19	\$3,540.70
May 2023	20	\$10,454.65
June 2023	25	\$54,736.40
July 2023	5	\$1,617.84
August 2023	4	\$5,414.18
September 2023	2	\$359.41
Totals	165	\$117,883.27

Neb. Rev. Stat. § 17-614(1)(a) (Supp. 2023) 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 elected members of 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 authorized by the Board, preferably prior to payment, and are adequately documented in the meeting minutes of the month in which they are approved.

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 51 disbursements, totaling \$86,198.43, were issued before the underlying claims were approved by the Board.

A summary of those premature payments is shown in the following table:

Month	Amount	Number of Payments Cleared Before Approval
October 2022	\$5,335.97	8
November 2022	\$4,563.63	9
December 2022	\$2,657.36	3
January 2023	\$16,543.27	8
February 2023	\$833.65	4
March 2023	\$32,142.32	3
April 2023	\$1,963.08	1
May 2023	\$0.00	0
June 2023	\$1,716.56	1
July 2023	\$400.04	3
August 2023	\$1,671.47	5
September 2023	\$18,371.08	6
Totals	\$86,198.43	51

As noted above, Neb. Rev. Stat. § 17-614(1)(a) (Supp. 2023) requires orders for the “appropriation or payment of money” to be approved by “the concurrence of a majority of all elected members of the . . . village board of trustees.”

Good internal control requires procedures to ensure all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved.

Payments in Excess of Approved Amount

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified seven disbursements, totaling \$6,505.18, that were paid in excess of the amount approved by the Board.

The following table details the individual claim payments that exceeded the Board-approved amount during the period October 1, 2022, to September 30, 2023:

Vendor	Claim Date	Approved Amount	Amount Paid	Overpayment
Wiest Hardware	10/11/2022	\$89.91	\$95.69	\$5.78
Black Hills Energy	11/8/2022	\$36.96	\$89.64	\$52.68
NPPD	11/8/2022	\$33.95	\$1,435.07	\$1,401.12
ATC Communications	12/20/2022	\$169.03	\$269.00	\$99.97
NPPD	1/10/2023	\$2,059.59	\$2,299.40	\$239.81
Wiest Hardware	5/9/2023	\$28.92	\$333.90	\$304.98
NPPD	5/9/2023	\$1,963.08	\$1,982.48	\$19.40
Totals		\$4,381.44	\$6,505.18	\$2,123.74

Good internal control requires procedures to ensure that every claim payment is made in the amount approved by the Board.

Without such procedures, there is an increased risk for not only loss or misuse of Village funds but also, in some instances, violation of State statute.

We recommend the Board implement procedures to ensure the following: 1) all Village checks contain dual signatures, from the Board Chairperson and the Village Clerk, as required by law; 2) the Board’s meeting minutes describe the purpose of each claim allowed, and only the claims being approved are listed in the meeting minutes; 3) the Board’s official proceedings are published in accordance with statutory requirements; 4) all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved; and 5) every claim payment is made in the amount approved by the Board.

* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use the knowledge gained during our work to make comments and recommendations that we hope will be useful to the Village.

Draft copies of this letter were furnished to the Village to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. The Village declined to respond.

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 these specified parties. However, this communication is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Audit Staff Working on this Examination:

Craig Kubicek, CPA, CFE – Deputy Auditor

Mason Culver – Auditor-In-Charge

Destini Morales – Auditor

Kelsey Lutz – Examiner

Sincerely,



Craig Kubicek, CPA, CFE

Deputy Auditor

Auditor of Public Accounts

Room 2303, State Capitol

Lincoln, NE 68509

Phone (402) 471-3686

craig.kubicek@nebraska.gov

cc. Nebraska Attorney General
Keith County Attorney
Nebraska Accountability and Disclosure Commission