



# 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

November 19, 2024

Dudley Persson, Chairperson  
Garfield Township Cuming County  
1963 H Road  
West Point, NE 68788

Dear Chairperson Persson:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Garfield Township Cuming County (Township) for the fiscal year ending 2024. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (2024 Neb. Laws, L.B. 1143, § 3), 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.

## Comment and Recommendation

### Possible Conflict of Interest

During review of its fiscal year 2024 audit waiver request, the APA noted that the Township had made eight payments, totaling \$14,247, to Persson Farms. After further inquiry, the APA was informed that Persson Farms is owned by the Chairperson of the Township Board (Board), Dudley Persson. The payments made to Persson Farms appear to be for the use of equipment, such as a payloader and backhoe. Receipts for two of these payments are shown below:

|                       |         |                      |            |
|-----------------------|---------|----------------------|------------|
| JAN 9 6 hrs Payloader | 360     | Apr 15-16 2024       |            |
| 10 8 hrs              | 480.00  | Put Culvert in on    |            |
| 11 8 hrs              | 480.00  | 19th road north      |            |
| 14 11 hrs             | 660.00  | Backhoe work 5 hrs   | 150.00 hr  |
| 15 11 hrs             | 660.00  | Payloader work 2 hrs | 125.00 hr  |
| 16 11 hrs             | 660.00  |                      |            |
|                       | 3300.00 |                      |            |
| PAYLOADER             |         | Backhoe              | 750.00     |
| USE                   |         | Payloader            | 250.00     |
|                       |         |                      | \$6,000.00 |
|                       |         | Persson Farms        |            |

Additionally, the APA obtained the minutes from the May 7, 2024, meeting of the Board, during which the above \$1,000 invoice was paid to Persson Farms. In the minutes shown below, there is no mention of Mr. Persson abstaining from voting on the claim:

*Garfield Township meeting*

5 7 24 A current copy of the Nebraska Open Meetings Act is available for public meetings for inspection.

Meeting was held at the Dudley Persson house with all members present. This month we had a Bank balance of 51,641.87 and County Treasurer of 39,779.58

All checks of bills paid are as follows:

|      |                  |              |         |
|------|------------------|--------------|---------|
| 1737 | Murphy Equipment | blades       | 3327.53 |
| 1738 | Supp Bros        | fuel in bulk | 85.82   |
| 1739 | Stalp Gravel     | gravel       | 9952.47 |
| 1740 | Persson Farms    | machinery    | 1000.00 |
| 1741 | Dudley Persson   | wages        | 1699.24 |
| 1742 | Farnus Pride     | fuel         | 2703.26 |

All bills approved and paid.

Received 4+ inches of rain since last meeting but roads are still in good shape.

*Larry Patzsch clerk*

Mr. Persson’s actions give rise to concerns regarding possible violation of the Nebraska Political Accountability and Disclosure Act (Act), as set out at Neb. Rev. Stat. §§ 49- 1401 to 49-14,142 (Reissue 2021, Cum. Supp. 2022).

According to Neb. Rev. Stat. § 49-1402 (Reissue 2021), the Act serves the purpose of, among other things, ensuring “that public office or employment not be used for private gain other than the compensation provided by law” and preventing situations in which “there exists, or appears to exist, a substantial conflict between the private interests of a public official and his or her duties as such official.”

Neb. Rev. Stat. § 49-14,101.01 (Reissue 2021) of the Act says, 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.

\*\*\*

(7) Except as provided in section 23-3113, any 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.

A Board member would fall within the definition of “public official,” which Neb. Rev. Stat. § 49-1443 (Reissue 2021) provides as follows:

*Public official shall mean an official in the executive branch, an official in the legislative branch, or an elected or appointed official in the judicial branch of the state government or a political subdivision thereof; any elected or appointed member of a school board; and an elected or appointed member of a governing body of a state institution of higher education.*

(Emphasis added.) According to the Nebraska Supreme Court, moreover, “A township is a political subdivision.” *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 725, 515 N.W.2d 128, 130 (1994). Finally, it should be noted that questions regarding the propriety of official actions taken by the Board members, at least with regard to compliance with the provisions of the Act, may be submitted to the Nebraska Accountability and Disclosure Commission (Commission) for guidance. 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 all Township officers adhere to the provisions of the Act. Without such procedures, there is an increased risk for not only loss or misuse of Township funds but also noncompliance with State statute.

We recommend the Board implement procedures to ensure all Township officers adhere to the provisions of the Act. Additionally, whenever any question arises regarding compliance with the Act, we recommend that formal guidance be sought from the Commission, as permitted by § 49-14,100. Finally, because this comment addresses possible violation of the Act, we are forwarding the information herein to the Commission for review.

\* \* \* \* \*

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