



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

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Randy Cunningham, Board Chairperson
Village of Dunbar
105 E Nebraska Street
Dunbar, NE 68346

Dear Chairperson Cunningham:

As you may know, the Nebraska Auditor of Public Accounts (APA) has received concerns regarding an apparent conflict of interest on the part of a member of the Board of Trustees (Board) for the Village of Dunbar (Village) involving a recent municipal street project. 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. On February 19, 2025, moreover, the APA issued a letter to the Village, detailing issues noted during our review of the Village's audit waiver request for the fiscal year ending 2024.

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

Background Information

The Village is located in Otoe County, Nebraska. The 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 timeline details significant events related to the municipal street project involving the apparent conflict of interest presently at issue:

- On December 12, 2024, an asphalt contractor, Burton Asphalt, attended the Board's meeting to inquire about the Village's interest in having street work performed. The Board requested an overlay proposal to be submitted for review at its following meeting in January 2025. The contractor informed the Board that crack filling work would cost "about \$1,000 per block." The Board stated that it would like to review the street budget and the proposal before making any decisions.
- On January 17, 2025, Burton Asphalt attended the Board's meeting and provided the Village with additional bids for various work. The Board did not make a formal decision, stating that it would continue to assess the Village's needs going forward.

- On February 13, 2025, during its meeting, the Board reviewed the Village's street repair budget and bids received for street work. The Board stated that it would discuss with contractors the possibility of using the current street budget for larger work to occur in phases.
- On March 5, 2025, the Village received a quote for street work from another contractor, Midwest Armor Coating, for \$29,500, with an initial down payment of \$7,375 required before work would begin.
- On March 13, 2025, a Midwest Armor Coating representative attended the Board's meeting and spoke on performing future street repairs and betterment work. The Board stated that it would review the Village's financials to determine how much money could be spent on streets this year before moving forward.
- On April 10, 2025, the Board discussed street work during its meeting and stated that a project would "be started up to the previously approved amount[.]" However, no amount appears to have been specified in any of the prior meeting minutes published by the Village.
- On April 16, 2025, during its meeting, the Board approved a down payment of \$7,500 to Midwest Armor Coating for street work authorized at a previous meeting. Again, however, the Board does not appear to have adopted a formal motion previously to commence the street work.
- On May 16, 2025, during its meeting, the Board discussed the status of the street work, which was scheduled to start the following week.
- On June 13, 2025, during its meeting, the Board discussed again the status of the street work, which was scheduled to start the following week on the west side of the Village.
- On July 10, 2025, during its meeting, the Board discussed the status of the street work. The Board stated that Phase 1 of the work was supposed to be for repairs, but it ended up being for paving instead due to the condition of the road. A representative from Midwest Armor Coating was reported to have spoken with Board Vice Chairwoman Lynda White and wanted very clear instructions for Phase 2 of the work.
- On July 24, 2025, the Village received an invoice, totaling \$24,468, from Midwest Armor Coating for the street work performed.
- On August 14, 2025, during its meeting, the Board discussed the status of the street work. Board Chairman Randy Cunningham advised that plans for Phase 2 of the street project were on hold, and the Board would discuss with the County Commissioners the pending repairs of West Nebraska Street. During this meeting, multiple members of the public commented on the street project and questioned why work was done on the street in front of a Board member's house.
- On August 22, 2025, the Village issued a check, totaling \$24,468, to Midwest Armor Coating for "Phase 1" of the street project work. The agenda for the Board meeting held on that day included an item for the "[a]pproval of claim for Road Work that was not acted on at the last meeting." However, the meeting minutes make no mention of the Board's approval of this payment.

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. Potential Conflict of Interest

As mentioned previously in the “Background Information” section herein, the Village had been in contact with contractors regarding a proposed road work project. Following those conversations, the Board reviewed bids and decided, on February 13, 2025, to discuss the pending work further with those contractors, as shown in the meeting minute excerpt below:

- o. Street repair budget and bids reviewed - Board will discuss with contractors using the current street budget for larger work to occur in phases.

Subsequently, on March 5, 2025, the Village received the following quote for street work from Midwest Armor Coating:

RECIPIENT: Dunbar Nebraska 105 E St Dunbar, Nebraska 68346		Quote #41		
		Sent on		Mar 05, 2025
		Total		\$29,500.00
Product/Service	Description	Qty.	Unit Price	Total
Seal Coating - Crack Sealing - Patching	We will conduct a thorough sweeping and cleaning of the east and west streets to remove all dirt and debris. Following this, we will mill and patch any broken or damaged areas, including potholes, using hot mix asphalt. Once the patching is complete, we will seal all major cracks with hot liquid rubber. After the crack sealing process, we will apply 2 coats of Seal Masters PMM Polymer Modified Master Seal to the east and west streets. Midwest Armor Coat will provide all necessary labor, materials, and equipment to successfully complete this project.	1	\$29,500.00	\$29,500.00*
* Non-taxable				
A deposit of \$7,375.00 will be required to begin.				
			Total	\$29,500.00

After this quote had been sent to the Village, a representative from Midwest Armor Coating attended the Board’s next meeting. However, the Board took no formal action regarding this quote, explaining that it would need to review the Village’s financials before moving forward, as shown in the following excerpt from the March 13, 2025, meeting:

- b. Levi Lovell from Midwest Armor Coating spoke on performing future street repairs and betterment. The board will review its financials and determine how much money it will be able to spend this year on streets before moving forward.

At its next meeting on April 10, 2025, the Board stated that a project would be started for a cost up to a “previously approved amount[.]” However, no such Board approval appears to be reflected in prior meeting minutes. An excerpt from these minutes is shown below:

- f. Discuss Street Work: A project will be started up to the previously approved amount

Despite taking no action regarding approval of the project or providing any specifics about it, the Board approved a \$7,500 down payment to Midwest Armor Coating at the April 16, 2025, meeting:

- a. Approval of downpayment to Midwest Armor Coating: MOTION CARRIED
Moved by Trustee Anderson, second by Vice Chair White to approve the downpayment in the amount of \$7,500.00 for street work to Midwest Armor Coating approved at a previous meeting. Roll Call: All yea, no nays.

Although the amount approved and paid for the down payment exceeded by \$125 the \$7,375 quote provided by Midwest Armor Coating, municipal representatives informed the APA that this payment was made for that same quote, which included seal coating, crack sealing, and patching east and west streets in the Village.

Based on the information presented above, the overall scope of this road work project does not appear to have been defined adequately or approved by the Village Board during a public meeting. After inquiring with Village representatives, including the Board Chairperson, regarding the project's scope of work, the APA was informed that the intended primary focus was minor repair work for the municipal roads, with other road work – such as street paving – to be undertaken if the project's budget had not yet been completely expended.

Despite minor repair work being the project's main focus, one Village Board member, Terry Weible, appears to have directed the contractor to alter that original plan. Shortly after the road repair work had begun – and without first consulting with the other Board members – Mr. Weible is alleged to have ordered the paving of North 3rd Street to West Indiana Street, which runs in front of his residence and was partially a gravel road.

According to a Midwest Armor Coating representative, the contractor had not brought the proper equipment at that time because it was intending to complete the minor repair work first, as initially approved by the Board and described in the quote. However, Mr. Weible allegedly directed the contractor to bring in the equipment needed for street paving and perform this paving work before continuing with the minor road repair.

The location of the work performed outside of Mr. Weible's property is shown in the images below:

Road Leading to Mr. Weible's Property (2023 – Before Paving)



Road Leading to Mr. Weible's Property (2025 – After Paving)



Road in Front of Mr. Weible's Property (2023 – Before Paving)



Road in Front of Mr. Weible's Property (2025 – After Paving)



Connecting Road Next to Mr. Weible's Property (2023 – Before Paving)



Connecting Road Next to Mr. Weible's Property (2025 – After Paving)



On October 30, 2025, the APA contacted Mr. Weible and inquired with him regarding the Village's street project and the concerns we received. Mr. Weible stated that before the street work began, the contractor had already brought the equipment to pave the road, and he had contacted and received approval from the Board Chairperson, Randy Cunningham. Mr. Weible also mentioned that there was another situation a few years ago where a previous member of the Board used Village funds to have his driveway paved, but it was treated as if it was a Village street project. As detailed previously herein, however, accounts from both the Board Chairperson and the Midwest Armor Coating representative appear to conflict with this timeline of events provided by Mr. Weible regarding the work performed on the Village's streets. When questioned about this conflicting information we were provided, Mr. Weible maintained that he had received approval from the Board Chairperson. Nevertheless, the APA questions whether it was proper for the road to be paved without prior approval from the full Board.

For the work completed on the Village's streets, including both the minor repairs and the paving done in front of Mr. Weible's property, the Village paid a total of \$31,968 – including the \$7,500 down payment made on April 16, 2025, and the \$24,468 payment made on August 22, 2025, for Phase 1 of the project.

For the second payment of \$24,468, the Village received an invoice on July 24, 2025, from Midwest Armor Coating as shown in the following image:

RECIPIENT: Dunbar Nebraska 105 E St Dunbar, Nebraska 68346		Invoice #23 Issued Jul 24, 2025 Due Jul 24, 2025 Total \$24,468.00 Account Balance \$24,468.00		
For Services Rendered				
Product/Service	Description	Qty.	Unit Price	Total
Milling	Mill and prep approximately 4,680 square feet.	4860	\$1.00	\$4,860.00*
Asphalt overlay	Install new asphalt over approximately 4,680 square feet and ensure thorough compaction of all asphalt.	4860	\$2.80	\$13,608.00*
Seal coating & crack sealing	Three blocks of Indiana Street	3	\$2,000.00	\$6,000.00*
Total				\$24,468.00
* Non-taxable All payments should be made payable to Midwest Armorcoat. Thank you for your business. Please contact us with any questions regarding this invoice.				Account balance \$24,468.00

As mentioned previously, the original cost estimate of the work quoted by Midwest Armor Coating was \$29,500, which raises questions not only about whether the work done on roads adjacent to Mr. Weible’s property was within the originally approved budget but also whether statutory bidding requirements were met.

Neb. Rev. Stat. § 17-568.01(4) (Reissue 2022) mandates the following for, among other things, work on Village streets:

Advertisements for bids shall be required for any contract costing over thirty thousand dollars entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(Emphasis added.) Moreover, allegations that Mr. Weible may have directed, without prior approval from the Board, additional road work outside of the original project scope to be performed for the benefit of his personal residence may give 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 to 49-14,142 (Reissue 2021, Cum. Supp. 2024).

Specifically, 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.

Good internal controls require procedures to ensure that all Village projects, including road repair work, are conducted in accordance with the scope of work approved by the Board and in compliance with applicable statutory bidding requirements.

Without such procedures, there is an increased risk of loss or misuse of Village funds and statutory noncompliance.

We recommend the Board implement procedures to ensure that all Village projects, including road repair work, are conducted in accordance with the scope of work approved by the Board and in compliance with applicable statutory bidding requirements. Because the issue addressed herein points to a possible violation of both the Act and § 17-568.01(4), we are forwarding this information to the Nebraska Accountability and Disclosure Commission and the Otoe County Attorney for further review.

Village Response:

Even though the minutes are lacking in specificity, there was only ever one bid from Midwest Armor Coating presented, and it was not for an entire street milling/asphalt overlay. The minutes show that at the meeting in March, the only bid from Midwest Armor Coating was presented and reviewed by the board. There should have been a motion to move forward with street work at that time, but based on the minutes there was not. It was just noted the board will move forward but wasn't decided on how much could be spent on the work. Then in April at the special meeting, a downpayment was approved for the only bid presented from Midwest Armor Coating, which everyone at the meeting likely interpreted as inherently approving the bid for which the downpayment was for, which was the bid presented in March (the only bid). The April 16th special meeting minutes should have been more clear and should have stated the entire bid was accepted, the scope of the bid, the amount of the bid, and not just the downpayment approval.

When the invoice came in from Levi after the work was done, Village attorney Tim Nelsen had instructed the board that the Village had to pay it. It is uncertain whether or not anyone had realized at the time it had exceeded the \$30,000 limit and the original bid amount of \$29,500 after adding together the final payment request amount and the downpayment amount.

Per Mr. Cunningham, Levi was given approval to finish crack sealing/coating/patching. Milling and overlaying was not approved. Randy Cunningham did tell Mr. Weible he would be the point of contact with questions while he was in the hospital and while Mrs. White was out of state.

In the section stating on July 10 that Mrs. White spoke with Levi regarding having very clear instructions for phase 2, Mrs. White also recalls that Levi called after the work had been completed (meaning after the road in front of Terry Weible's had been repaved) and felt he needed to speak with someone else to explain the situation as he wanted to do the right thing. Levi stated he did NOT have the equipment on hand (in Dunbar) since he did not plan to repave any roads during phase one and needed to make a separate trip to wherever his equipment was so he could bring out what he needed to repave the road. He stated this cost him time and manpower to do. Levi told Mrs. White he moved forward with the decision to repave the road as he was speaking to a board member and the board member showed him paperwork stating it was that particular road listed that needed to be repaired. On the day of the repairs, Terry Weible did call Mrs. White to ask what the budget was and she explained phase one was \$30,000. Each phase would be the same. Mr. Weible was mentioning his road, not being able to be repaired but needing to be completely redone and because Mrs. White was leaving for an out-of-town event, she was unable to talk about that with him at the time and suggested he reached out to chairman Randy Cunningham to discuss.

2. Meeting Minute Issues

As noted previously herein, the Village's meeting minutes appear not to have documented adequately Board discussions pertaining to the municipal street repair project. Although Village representatives informed the APA that both the work and the subsequent payment therefore were formally approved, the meeting minutes lack sufficient detail to reflect accurately those authorizations or their underlying discussions.

Furthermore, the Village appears to have failed to publish meeting minutes for the past several months, with the most recent publication being for a meeting occurring on May 16, 2025.

As for the meeting information that was published, the APA noted that the versions maintained on the Village's website (<https://www.dunbarnebraska.com>) sometimes contain information not found in the official proceedings appearing in the Nebraska City News-Press newspaper. For example, the May 16, 2025, meeting minutes on the Village's website record the Board's acceptance of the Utility Billing Clerk's resignation, as shown in the excerpt below:

- h. Acceptance of resignation Theresa Kavan as Utility Billing Clerk. MOTION CARRIED.
Moved by Vice Chairwoman White, second by Trustee Anderson to accept resignation. Roll Call: All yea, no nays.

However, this approved agenda item is not found in the official proceedings published in the newspaper, as shown below:

MINUTES OF THE REGULAR BOARD MEETING -DUNBAR
The regular board meeting of the Village of Dunbar was held on May 16, 2025 in the Village Hall at 105 E Nebraska St. Dunbar, NE at 6PM. Call to order at 7:02pm Board member in attendance: Lorna Anderson, Lynda White, Terry Weible, Randy Cunningham. Absent Steve Wilson. Proclamation: Pursuant to law, a copy of the Open Meetings Act is posted on the east wall of this meeting room and is accessible to members of the public. Public Comment opportunity given. No comments made. Motion carried to approve agenda as submitted. All yays. Motion carried to approve minutes of regular meeting on April 10, 2025. All yays. Motion Carried to approve Claims in the amount of \$12,881.53. All yays. Approval of training wages. Motion carried. All yays. Appointment of Jessica Hopper as Clerk/Treasurer. Motion carried to approve. All yays. Approval of changing signature cards to add new clerk, remove previous clerk. Motion carried to approve. All yays. Approval of rescheduling Regular meeting to June 13, 2025. Motion carried to approve. All yays. Approve amended resolution 2025-4-2 to remove

one previously approved transfer. Motion carried to approve. All yays. iCheckGateway Fee -\$30.00, Windstream Phone \$90.85, Timothy Nelson \$100, Clyde Draeger Wages + Mileage \$793.69, Walter Scharp Wages \$126.14, Kristina Findley wages \$218.37, Theresa Kavan wages \$334.43, Jessica Hopper wages \$401.12, Nebraska City Utilities \$1,238.61, Otoe County Rural Water Dist #3 7,000 gallons \$269.25, Card Services Ink/Website \$58.53, Nebraska Public Health Lab \$743.00, Column publications \$61.29, Menards flowers \$411.28, J.P. Cooke Company dog tags \$91.95, LONM Accounting & Finance Conference \$565.00, Lovell Excavating hydrant repair \$6,500, Nebraska Rural Water Association 2025 Dues \$200, JEO Annual Road Program \$600, B104 2024 Dunbar Days Ads \$48.00. Published in the Nebraska City News Press on June 13, 2025.
3561580 ZNEZ

The above information suggests that the information published in the newspaper does not always constitute an accurate representation of the Village Board's meeting activities.

Neb. Rev. Stat. § 84-1413(1) (Reissue 2024) of the Open Meetings Act (Act), which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2024), 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," 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. . . .

(Emphasis added.) Good internal controls require procedures to ensure: 1) the Board's meeting minutes describe "the substance of all matters discussed," as required by law; 2) the "official proceedings" of the Board are published, in accordance with State statute, regularly and timely; and 3) such publications constitute accurate reflections of the Board meetings that they purport to chronicle.

Without such procedures, there is an increased risk of not only failure to comply with statutory requirements for the keeping of proper meeting minutes and the publication thereof but also a lack of transparency regarding the nature of public expenditures and actions taken by the Board.

We recommend the implementation of procedures to ensure: 1) the Board's meeting minutes describe "the substance of all matters discussed," as required by law; 2) the "official proceedings" of the Board are published, in accordance with State statute, regularly and timely; and 3) such publications constitute accurate reflections of the Board meetings that they purport to chronicle. Because this comment points to a possible violation of both the Open Meetings Act and § 19-1102, we are forwarding the information herein to the Nebraska Attorney General and the Otoe County Attorney for further review.

Village Response:

Mrs. Findley had asked the Village attorney Tim Nelsen about what all needs to be in the full minutes. He stated all that was needed to put was "Discussed [item name]." Mrs. Findley was doing longer minutes in the past but had gotten into the habit of shortening them due to that advice. Mrs. Findley understands that those short minutes without enough detail are not truly helpful. As of October 2025, Mrs. Findley has begun recording full expanded detailed minutes and will train any future Clerk to do the same.

For the minutes that are published in the paper, the past two clerks before her (Theresa Kavan and Patricia Petersen) had always done them the same way so that is how Mrs. Findley was trained, and she continued to do it consistently with how they did it. Mrs. Findley will begin putting in any motion and the outcome of the motion in the condensed published meeting minutes along with the claims, as she is now aware that is the proper way to do it.

For the minutes June-September that were not published in the paper from the time Jessica Hopper (who was hired in May and resigned in August) was in the role, Mrs. Findley will get those caught up yet this month as she has had to catch up most things during the period Jessica Hopper was in the role. And they will be published with the motions included.

* * * * *

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. Any formal response received has been incorporated into this letter. Such response has been objectively evaluated and recognized, as appropriate, in the letter. A response that indicates corrective action has been taken was not verified at this time.

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

Caden Janak – 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 Accountability and Disclosure Commission
Nebraska Attorney General
Otoe County Attorney