



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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May 6, 2026

Jerad Little, Chairperson
Village of Malcolm
PO Box 228
Malcolm, NE 68402

Dear Chairperson Little:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Malcolm (Village) for the fiscal year ending 2025. **That request has been approved.**

However, the Village's disbursements for the fiscal year ending September 30, 2025, exceeded our normal threshold (\$500,000) for granting a waiver of the audit requirement. Disbursements for the fiscal year ended 2025, totaled \$1,212,370, which exceeds the normal audit waiver threshold. Due to the Village's submission of supporting documentation for one-time, low-risk expenditures that accounted for a significant percentage of the current year's expenditures, as well as the completion of the agreed-upon procedures engagement conducted by HBE, LLP, for the year ended September 30, 2025, we were able to consider the Village's activity for the year to be low enough to grant the audit waiver request.

Nevertheless, if the September 30, 2026, fiscal year-end disbursements are similar to, or greater than, the fiscal year 2025's expenditures, or close to the budgeted disbursements for fiscal year 2026, an audit of fiscal year-end September 30, 2026, may be required. This information is only for your consideration in planning for fiscal year 2026 and forward.

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2025), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, the APA noted certain internal control or compliance matters, or other operational issues, within the Village.

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

Comments and Recommendations

1. Possible Conflict of Interest

The APA received the minutes, along with the accompanying claims listing, for the Village Board's (Board) meeting held on October 1, 2025. From that documentation, the APA identified potential conflicts of interest involving the actions of Board member Mike Faubion, spouse to Village Clerk April Faubion, and Board member Jerad Little, father of Village employee Jaydin Little.

According to the meeting minutes, Mr. Faubion failed to abstain from voting on the following claims payable to his spouse:

Name	Description	Check #	Check Date	Cleared Date	Amount
April Faubion	September 5, 2025, Payroll	Direct Deposit	9/4/2025	9/4/2025	\$ 1,111.41
April Faubion	September 12, 2025, Payroll	Direct Deposit	9/11/2025	9/11/2025	830.71
April Faubion	September 19, 2025, Payroll	Direct Deposit	9/18/2025	9/18/2025	865.96
April Faubion	September 26, 2025, Payroll	Direct Deposit	9/25/2025	9/25/2025	807.76
April Faubion	Cell Phone Reimbursement and Mileage	15207	9/29/2025	10/7/2025	86.40
Total					\$ 3,702.24

The APA also received the April 2, 2025, Board meeting minutes, and noted also that Mr. Faubion did not abstain from voting on similar payments approved for his wife during that meeting.

In addition, the APA became aware that Board member Jerad Little is the father of Jaydin Little, a Village employee. Per the Village Clerk, however, Jaydin began living in his father's house in September 2025. Therefore, the APA examined the October 1, 2025, Board meeting minutes to ensure that Mr. Little did not vote to approve claims payable to his son. However, Mr. Little appears to have failed to abstain from voting on the following payments:

Name	Description	Check #	Check Date	Cleared Date	Amount
Jaydin Little	September 5, 2025, Payroll	Direct Deposit	9/4/2025	9/4/2025	\$ 933.35
Jaydin Little	September 12, 2025, Payroll	Direct Deposit	9/11/2025	9/11/2025	951.41
Jaydin Little	September 19, 2025, Payroll	Direct Deposit	9/18/2025	9/18/2025	852.21
Jaydin Little	September 26, 2025, Payroll	Direct Deposit	9/25/2025	9/25/2025	856.04
Jaydin Little	Cell Phone Reimbursement	15206	9/29/2025	10/7/2025	50.00
Total					\$ 3,643.01

Excerpts from the October 1, 2025, meeting minutes are provided below:

October 1, 2025 at 7:00 PM - Board of Trustees Meeting
<p>The Trustees of the Village of Malcolm met on Wednesday, October 1, 2025, at 7:00 p.m. in open session at the Village Hall located at 137 East 2nd Street, Malcolm, NE for such business as shall come before said Trustees. Notice of the meeting was in the "Clipper" and posted at the Village Hall, Malcolm Post office, Malcolm Fire Department, and on the Malcolm Website on Monday September 29, 2025.</p>
<p><u>CALL TO ORDER AND ROLL CALL</u> Nick Benes: Absent, Mike Faubion: Present, Jerad Little: Present, Jack Tarr: Present. Jason Lemkau: Present</p>
<p><u>CONSENT AGENDA</u> The following items are considered routine by the Village Board and will be approved with a single motion. Any item may be removed from the consent agenda for individual discussion at the request of a Board member or citizen.</p> <ul style="list-style-type: none"> • Reading of minutes, for September 10, 2025 and September 22, 2025, request for approval (as amended). • Disbursements, Receipts, and Treasurer's reports request for approval (as amended). • Claims request for approval (as amended). <p>Jerad Little made a motion to approve the Consent Agenda as presented, which includes the minutes from September 10, 2025 and 22, 2025 meetings, claims including Solheim Law bill for \$1647.50, and the Treasurer's Report showing check of \$75,583.85 and deposits of \$69057.14. Jason Lemkau seconded the motion. Motion Carried</p> <ul style="list-style-type: none"> • Nick Benes: <i>Absent</i> • Jerad Little: <i>Yea</i> • Jack Tarr: <i>Yea</i> • Jason Lemkau: <i>Yea</i> • Mike Faubion: <i>Yea</i>

The apparent failure of Board members Mike Faubion and Jerad Little to abstain from voting on the motion above gives 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, Supp. 2025).

To start, 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.

Neb. Rev. Stat. § 49-1425 (Reissue 2021) of the Act defines “immediate family” as “a child residing in an individual’s household, a spouse of an individual, or an individual claimed by that individual or that individual’s spouse as a dependent for federal income tax purposes.”

Furthermore, Neb. Rev. Stat. § 49-1499.03(2) (Cum. Supp. 2024) provides the following for claims not associated with a contract:

(a) Any public official of any political subdivision not designated in section 49-1493 who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(ii) Deliver a copy of the statement to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision; and

(iii) Except as otherwise provided in subsection (3) of this section, abstain from participating or voting on the matter in which the public official has a conflict of interest.

(b) The public official may apply to the commission for an opinion as to whether the person has a conflict of interest.

(Emphasis added.) It should be noted also that subsection (b) of the above statute authorizes the Nebraska Accountability and Disclosure Commission (Commission) to issue, upon request, “an opinion as to whether the person has a conflict of interest.” This is correlative to Neb. Rev. Stat. § 49-14,100 (Reissue 2021) of the Act, which provides the following:

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

Good internal control requires procedures to ensure compliance with applicable provisions of the Act. Those procedures should include also seeking needed guidance from the Commission, especially regarding potential conflicts of interest.

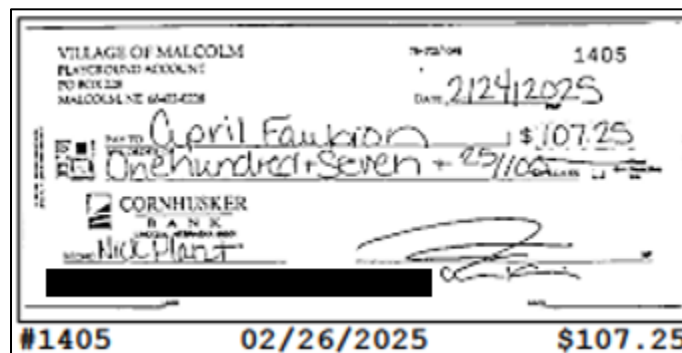
Without such procedures, there is an increased risk for both statutory violations and the loss of Village funds.

We recommend the Board implement procedures to ensure compliance with applicable provisions of the Act. Such procedures should include also seeking needed guidance from the Commission, especially regarding potential conflicts of interest. Because the issue addressed herein constitutes a possible violation of the Act, we are forwarding this information to the Commission for further review.

Village Response: Beginning in March 2026, Mike and Jerad began abstaining from votes on payroll and reimbursement claims for Jaydin and me [Village Clerk]. Going forward, there will be two separate motions: one to approve Jaydin's payroll and reimbursement claims, from which Jerad will abstain, and a second motion to approve my payroll and reimbursement claims. This approach ensures that a quorum will still be available to approve these items if a Board member is absent. The vice chairperson will now be approving timesheet as an extra level of avoiding a conflict of interest.

2. Apparently Disallowed Purchase

During our review of the bank statements accompanying the Village's audit waiver request, the APA noted that the Village made one reimbursement payment, totaling \$107.25, to the Village Clerk, April Faubion, in February 2025. This purchase was made from the Village's "Playground" checking account. According to the Village, this payment was for the purchase of flowers for memorial services. An image of the Village check issued for the expenditure at issue is shown below:



The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022, Cum. Supp. 2024), 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 (Cum. Supp. 2024).

Neb. Rev. Stat. § 13-2203 (Reissue 2022) of the Act enumerates the miscellaneous expenditures permitted by governing bodies of local governments. Purchases of flowers – whether for funerals, memorials, or other personal occasions – are not found among that select statutory list of permissible expenditures. Unless authorized elsewhere in State statute, therefore, such disbursements must be considered disallowed by law.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission adopted a document entitled “A Guideline to the Use of Public Funds by Cities and Villages – Revised” (Guideline). The Guideline addresses a number of different scenarios involving the expenditure of public funds. Though issued more than three decades ago, the Guideline remains relevant to various Nebraska public entities.

Regarding the issue of flower and memorial purchases, the Guideline provides the following:

Question #6 – May municipal funds be expended for flowers and memorials for deceased elected officials, employees or their families?

Response – No.

Good internal control requires procedures to ensure compliance with the provisions of the Act and applicable State statutes. Without such procedures, there is an increased risk for not only noncompliance with applicable statutory requirements but also loss or misuse of Village funds.

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

Village Response: It was the understanding of both the Board and me [Village Clerk], the Playground account, being funded by donations, could be used for purchases such as this. After speaking with [the APA] and reviewing the applicable statute with [the APA], the Board and I now have a clearer understanding. Moving forward, the Village will not make purchases for memorials or similar items using any Village funds including donated funds.

3. Inadequate Publication of the Board’s Official Proceedings

During our comparison of the Village’s bank account details to claims approved by the Board, the APA reviewed the Affidavit of Publication for the October 1, 2025, Board meeting. However, such publication, as shown below, does not appear statutorily compliant because it failed to include “the amount of each claim allowed, the purpose of the claim, and the name of the claimant.”



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, Supp. 2025), 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.”

Further, as shown below, Neb. Rev. Stat. § 19-1102 (Reissue 2022) requires publication of the Board’s official proceedings, which must include, among other things, “the amount of each claim allowed, the purpose of the claim, and the name of the claimant”:

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 controls and sound accounting practices require procedures to ensure that the Board’s official proceedings, as well as the mandatory publication thereof, contain the amount and purpose of each claim and the name of the claimant, as required by State statute.

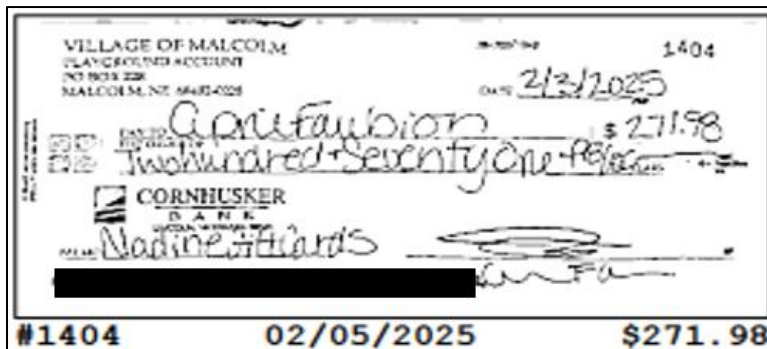
Without such procedures, there is an increased risk of not only failure to comply with statutory requirements pertaining to the keeping of proper meeting minutes and the publication of the municipality’s “official proceedings” but also a lack of transparency regarding the nature of public expenditures.

We recommend the Board implement procedures to ensure both the Board’s official proceedings, as well as the mandatory publication thereof, contain the amount and purpose of each claim and the name of the claimant, as required by State statute.

Village Response: Going forward, the posted proceedings will include a detailed listing of each claim, its purpose, and the claimant, rather than only the total claims amount.

4. **Employee Recognition Policy**

On February 3, 2025, the Village reimbursed April Faubion, the Village Clerk, a total of \$271.98 for retirement recognition gift cards for the long-time municipal employee’s retirement from the Village. An image of the reimbursement check is shown below:



However, the Village lacked a formal, written policy that outlined allowable purchases for employee recognition, including setting a dollar limit on the value of any purchase, as required by Neb. Rev. Stat. § 13-2203(3) (Reissue 2022).

The Local Government Miscellaneous Expenditures Act, which is found at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022, Cum. Supp. 2024), places strict parameters upon the expenditure of public funds, not otherwise provided by law, by local governments, including counties. Specifically, Section 13-2203 (Cum. Supp. 2024) states the following, in relevant part:

In addition to other expenditures authorized by law, each governing body may approve:

** * * **

(3) The expenditure of public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on local government boards or commissions. Before making any such expenditure, the governing body shall, by official action after a public hearing, establish a uniform policy which sets a dollar limit on the value of any plaque, certificate of achievement, or item of value to be awarded. Such policy, following its initial adoption, shall not be amended or altered more than once in any twelve-month period.

Good internal control requires municipal expenditures for the recognition of Village employees to be made pursuant to a formally adopted policy that establishes specific parameters for such expenses. Without such policy, there is an increased risk for not only loss, theft, or misuse of Village funds but also statutory noncompliance.

We recommend the Village implement adequate controls over the Village's payments for employee recognition, including a formally approved policy that outlines procedures for allowable purchases.

Village Response: I [Village Clerk] will draft an employee recognition policy for Board approval, and it will be included in the employee handbook once approved.

5. Lack of Purchasing Card Policy

During review of the bank statements obtained from the Village's audit waiver request, it was noted that there were numerous municipal credit card transactions, totaling \$21,246, throughout fiscal year 2025. However, the Village lacked a written policy for not only specifying allowable purchases and authorized users but also safeguarding municipal assets when using a purchasing card.

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.

Good internal control requires the adoption of a formal policy that not only specifies allowable purchases and authorized users but also safeguards municipal assets when using a Village purchasing card.

Without such policy, there is an increased risk for both loss, theft, or misuse of Village funds and statutory noncompliance.

We recommend the adoption of a formal policy that not only specifies allowable purchases and authorized users but also safeguards municipal assets when using a Village purchasing card.

Village Response: I [Village Clerk] will draft a credit card policy for Board approval, which will also be incorporated into the employee handbook once approved. I have discussed our current credit card monitoring and usage procedures with [the APA] to explain how the village safeguards purchases without a written policy. At this time, Jaydin and I are the only individuals authorized to use Village credit cards. The primary credit card is kept in the Village office at all times and is released by me only when a purchase is required. The card is returned to the office along with the purchase receipt immediately after use. Jaydin maintains a Home Depot card for maintenance supply purchases. Prior to making a purchase, he notifies me of the intended expense and provides the receipt to the office the same day the purchase is made. Purchases up to \$1,000 may be made without prior Board approval. As a best practice, Jaydin and I typically inform the Board of purchases exceeding \$500 unless the expense is urgent, such as immediate Village repairs; in those cases, at least one Board member is generally notified in advance.

6. Payment of Late Fees, Interest, and Sales Tax

While examining the Village’s credit card statement for March 2025, the APA noted that the Village paid a total of \$67.26 in late fees and interest to the credit card company. In addition, the APA observed that the Village paid a total of \$8.18 in Nebraska sales tax on the transactions listed on the March 2025 credit card statement.

The table shown below summarizes the sales taxes paid:

Date	Vendor	Description	Amount
3/6/2025	Matheson Tri-Gas	Sales Tax	\$ 4.38
3/7/2025	Matheson Tri-Gas	Sales Tax	3.80
4/16/2025	Elan Financial Services	Late Interest and Fees	67.26
Total			\$ 75.44

Per Neb. Rev. Stat. § 77-2704.15(1)(a) (Cum. Supp. 2024), 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 credit card billings are paid timely to avoid unnecessary penalties, and sales taxes are not paid on municipal purchases.

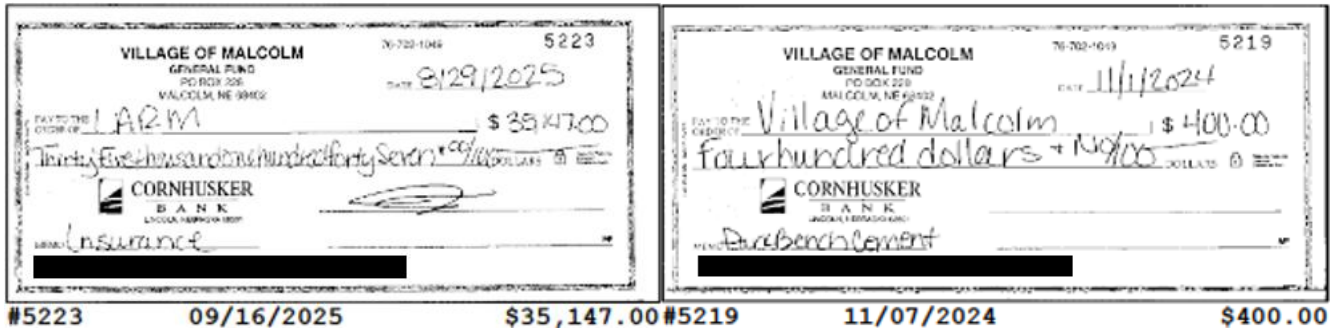
Without such procedures, there is an increased risk for not only noncompliance with applicable statutory provisions but also loss or misuse of Village funds.

We recommend the Board implement procedures to ensure that credit card billings are paid timely to avoid unnecessary penalties, and sales taxes are not paid on municipal purchases.

Village Response: The late fee for Elan occurred during the transition from paying claims weekly to paying them after the monthly Board meeting. I [Village Clerk] will ensure closer monitoring of when sales tax is applied and work to have it removed when appropriate.

7. Lack of Dual Signatures

The APA obtained the bank statements for the Village’s accounts from its fiscal year 2025 audit waiver request. From these statements, the APA noted that seven of the Village checks written during the examination period contained either no signature or only one signature. Examples of the checks at issue are shown below:



State statute requires Village checks to be signed by both the Chairperson of the Board of Trustees (Board) and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Reissue 2022) provides the following:

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

The APA identified a similar issue in a prior review and disclosed it to the Village in a letter dated February 11, 2025, which can be found on the APA’s website. However, this issue does not appear to have been corrected after the APA’s notification.

We recommend the Board implement procedures to require dual signatures, from the Board Chairperson and the Village Clerk, on all Village checks, as required by law.

Village Response: We need to be vigilant in signing check to make sure both signatures are on the checks before sending them out. Claims are no longer processed weekly and approved by the Board at the following meeting. The Board now approves claims during the meeting, and checks are signed at that time and mailed the next day. This change was implemented in late spring of last year.

8. 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 the March 2025 claims, totaling \$116,587, were paid before Board approval. The Board approved these payments on April 2, 2025. One electronic debit for a credit card payment, totaling \$234, was entered into the accounting system on March 31, 2025, but cleared the bank on April 4, 2025.

Per the Village Clerk, it is usual for the Board Chairperson to review and to approve the claims on the Monday before they are forwarded to the other Board members – who then review all claims for the prior month at the next meeting.

Neb. Rev. Stat. § 17-614(1)(a) (Cum. Supp. 2024) 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 prior to payment and are documented adequately in the minutes of the meeting during which they are approved.

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

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We recommend the Board implement procedures to ensure all claims are authorized by the Board prior to payment and are documented adequately in the minutes of the meeting during which they are approved.

Village Response: We need to be vigilant in signing check to make sure both signatures are on the checks before sending them out. Claims are no longer processed weekly and approved by the Board at the following meeting. The Board now approves claims during the meeting, and checks are signed at that time and mailed the next day. This change was implemented in late spring of last year.

* * * * *

The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the Village's policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to offer comments and suggestions that we hope will prove useful to the Village.

This communication is intended solely for the information and use of the Village and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov.**

Sincerely,



Mark Avery, CPA
Assistant Deputy Auditor

cc. Nebraska Accountability and Disclosure Commission