



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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November 7, 2013

Lyle M. Keilwitz, Board Chair  
Village of Gilead  
PO Box 13  
Gilead, NE 68362-0013

Dear Mr. Keilwitz:

As you may know, the Auditor of Public Accounts (APA) has a toll-free telephone number and an email address for Nebraskans to raise issues – anonymously, if they wish – about possible waste, mismanagement, or fraud within government. In connection with this, we help to provide accurate information to taxpayers and attempt to address concerns about governmental finances. We try to do so in a timely manner, believing this to be a valuable service to the State's citizens.

Recently, this office was contacted by a concerned individual regarding certain expenditures of the Village of Gilead (Village). Upon receiving the allegations, the APA contacted Ashley Hellbusch, the Village Clerk, on August 30, 2013, and began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. The APA reviewed the Gilead Village Board (Board) meeting minutes and certain financial information for the period November 2011 to June 2013. Based upon that preliminary planning work and review, it has been decided that no audit or attestation of the Village, by the APA, is necessary at this time.

However, during the course of our preliminary work, we noted certain internal control, compliance matters, or other operational matters within the Village that are presented below. The comments and recommendations, which have been discussed with the Clerk, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control was for the limited purpose described in the paragraphs above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Therefore, material weaknesses or significant deficiencies may exist that were not identified.

Draft copies of this letter were furnished to the Board to provide its members with an opportunity to review and to respond to the comment and recommendation contained herein. The formal response received has been incorporated into this letter. The 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.

### **Approval and Publishing of Claims**

The meeting minutes of the Board lacked the list of claims presented and approved for payment. Rather, the minutes simply indicated that a motion was made and approved to pay the bills as

presented. The list of claims presented and approved was not maintained with the meeting minutes by the Village, so the APA was unable to determine which claims were actually presented and approved at each meeting.

The Village is required to comply with the Open Meetings Act (Act), which is found at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2008, Cum. Supp. 2012).

Section 84-1413(1) of the Act states, “Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.” (Emphasis added.) Lacking even the most cursory details or description of the claims presented and approved, much less a simple listing of those items, the Village’s meeting minutes do not reflect “the substance of all matters discussed.”

Furthermore, Section 84-1413(4) of the Act states, “The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.” Failure to comply with § 84-1413(1), which has resulted in incomplete meeting minutes, renders impossible subsequent adherence to § 84-1413(4).

Additionally, since May 2013, the Village Clerk has ceased publishing the list of claims allowed by the Board. Such publication is required by Neb. Rev. Stat. § 19-1102 (Reissue 2012), which states:

*It shall be the duty of each village or city clerk in every village or city having a population of not more than one hundred thousand to prepare and publish the official proceedings of the village or city board, council, or commission within thirty days after any meeting of the board, council, or commission. The publication shall be in a newspaper of general circulation in the village or city, 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.)*

Because the Village has a population of approximately 40 people, the Village Clerk is clearly subject to the above statutory mandate.

It should be noted that Neb. Rev. Stat. § 19-1104 (Reissue 2012) provides a criminal penalty for failure to comply with § 19-1102, as follows:

*Any village or city clerk, or treasurer, failing or neglecting to comply with the provisions of sections 19-1101 to 19-1103 shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined, not to exceed twenty-five dollars, and be liable, in addition to removal from office for such failure or neglect.*

By not including in its meeting minutes a list of all claims presented and approved, which effectively prevents the public inspection thereof, as well as failing to publish those complete proceedings, including all claims allowed, the Board and the Village Clerk are jointly responsible for multiple violations of the law. Such violations give rise to a lack of governmental accountability and transparency, which is detrimental to the interests of local taxpayers.

We recommend that the Board and the Village Clerk comply with the laws applicable to meeting minutes, as well as ensure governmental accountability and transparency, by: 1) including in the meeting minutes a list of all claims presented and approved; 2) making the complete meeting minutes available for public inspection; and 3) publishing the meeting minutes, including all claims allowed.

**Financial Information Presented to the Board**

The following checks and transactions were not included in the financial information provided to the Board at meetings:

| Check Number | Approx. Date of Check | Amount      | Payee or Purpose          |
|--------------|-----------------------|-------------|---------------------------|
| 2036         | Sept/Oct 2012         | \$ 45.00    | US Post Office            |
| 2043         | Oct 2012              | \$ 303.19   | Transfer between accounts |
| 2044         | Oct 2012              | \$ 2,931.18 | Fairbury Light and Water  |
| 2056         | Nov/Dec 2012          | \$ 231.47   | Transfer between accounts |
| 2057         | Nov/Dec 2012          | \$ 442.96   | Transfer between accounts |
| 2064         | Dec 2012              | \$ 280.51   | Transfer between accounts |
| 2065         | Dec 2012              | \$ 173.76   | Transfer between accounts |
| 2114         | April/May 2013        | \$ 2,886.01 | Fairbury Light and Water  |
| 2116         | April/May 2013        | N/A         | Voided Check              |
| 2123         | April/May 2013        | \$ 2,532.71 | Fairbury Light and Water  |

As pointed out above, the APA could not verify whether these transactions were ever actually approved by the Board, as the list of claims was not included in the board meeting minutes.

Neb. Rev. Stat. § 17-715 (Reissue 2012) provides for village claims and allowance of payment, which states:

*Upon the allowance of claims by the council or trustees, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget statement; and no order or warrant shall be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn, unless there shall be sufficient money in the treasury at the credit of the proper fund for its payment; Provided, that in the event there exists at the time such warrant is drawn, obligated funds from the federal government or the State of Nebraska, or both from the federal government and the State of Nebraska, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn to the additional extent of one hundred percent of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn.*

Good internal control requires adequate procedures to ensure that complete and accurate information is presented to the Board for approval. Without such procedures, there is an increased risk for loss or misuse of Village funds.

We recommend the Board ensure all expenditures of Village funds are properly presented to the Board for approval in accordance with State law.

**Pay to Former Clerk**

The Village paid a former Village Clerk an hourly rate to train her replacement after she had resigned. However, because those claims were not included in the Board’s meeting minutes, the APA was unable to verify whether the Board approved the pay rate of the former clerk.

Additionally, no written time records or other documentation is available to indicate the dates and times that the former Village Clerk actually provided the training services to her replacement.

In addition to not complying with Statutes already noted above regarding approving and publishing claim, good internal control requires adequate records and documentation to support all payments made by the Village. Without such records and documentation, there is an increased risk for loss or misuse of Village funds.

We recommend the Board approve the rates for all services provided to the Village. We also recommend the Board ensure proper records are maintained to support and approve all Village expenses.

*Village Response: Thank you for addressing these issues. We have discussed all of them and they will be fixed going forward. We apologize and were unaware that we were not following statute. If there is anything in the future that needs addressed please do not hesitate to bring it to our attention.*

\* \* \* \* \*

The Board should take, in a timely fashion, whatever action it deems appropriate to resolve the issues addressed in this letter.

Our planning and 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 our knowledge of the Village and its interaction with other entities gained during our work to make comments and suggestions that we hope will be useful to the Village.

This letter is intended solely for the information and use of the Board and is not intended to be, and should not be, used by anyone other than the specified party. However, this report 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.

Sincerely,

SIGNED ORIGINAL ON FILE

Mike Foley  
State Auditor

cc: Village Board Members