



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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May 23, 2016

Mr. David Moll, Board Chair  
Village of Greenwood  
P.O. Box 190  
619 Main Street  
Greenwood, NE 68366

Dear Mr. Moll:

As you may know, the Nebraska Auditor of Public Accounts (APA) was presented recently with a complaint regarding certain financial activity of the Village of Greenwood (Village). In response thereto, the APA began limited preliminary planning work to determine if a full financial audit or attestation of the Village would be warranted. That process involved, among other things, gathering specific information regarding the Village's financial transactions or related compliance matters.

Based upon the outcome of the preliminary planning work, the APA has determined that a separate financial audit or attestation of the Village is unnecessary at this time. During the course of that exploratory work, however, we noted certain internal control or compliance matters, or other operational concerns within the Village, that are addressed below. The following information is offered to help improve the Village's internal controls or result in other operational efficiencies.

### Clerk Duties

The APA has learned that, while serving as the Board Chair, David Moll assumed certain duties of the former Village Clerk. Mr. Moll was appointed as "Temporary Clerk" soon after the resignation of the former clerk. Although a new Village Clerk was hired months ago, Mr. Moll continued to retain his temporary clerking position until April 6, 2016.

The following table summarizes the significant dates relating to Mr. Moll's assumption of "Temporary Clerk" duties for the Village:

Date	Action	Estimated End of Temporary Clerk Duties
12/02/15	Village Board approves David Moll to act as "Temporary Clerk" for up to two weeks after a new Village Clerk is hired. Mr. Moll was to help with training the new clerk.	N/A – New clerk not yet hired.
12/16/15	Board approves the hiring of Marcia Fiala as new Village Clerk.	N/A – Start date unknown.
01/18/16	Ms. Fiala begins work as Village Clerk.	02/01/16

Date	Action	Estimated End of Temporary Clerk Duties
01/27/16	Board agrees that Mr. Moll should remain "Temporary Clerk" for one additional week.	02/08/16
02/10/16	Mr. Moll receives Board approval to remain "Temporary Clerk" over the next month.	03/10/16
03/09/16	Board extends Mr. Moll's position as "Temporary Clerk" with no disclosure of the end date, citing need for him to assist with accounts management, provide support for the new Village Clerk, and work on updating the Village's computer system.	No time frame stated in minutes.
03/30/16	According to Board minutes, approximately two more days are needed for Mr. Moll to complete his "Temporary Clerk" duties; however, this determination is not formally approved by the Board.	Not specified.
05/11/16	The APA receives a statement from Mr. Moll stating that he had resigned his position as "Temporary Clerk" as of April 6, 2016.	04/06/16

Village Ordinance No. 449 designated the vacated Village Clerk position as an emergency and initiated an "emergency action to appoint Chairperson David Moll as temporary Clerk/Treasurer for the Village of Greenwood." Supplemental thereto, Village Ordinance No. 450 set the Board-approved wage of \$15.00 an hour for the temporary clerk/treasurer position. Both Village Ordinance No. 449 and No. 450 were adopted on December 2, 2015.

The APA requested the payroll documentation for both Mr. Moll and Ms. Fiala, beginning with the first week in December 2015. The hours worked, pay rates, and gross amounts paid for those two individuals are summarized and compared in the following chart:

Paycheck Date	Pay Period	David Moll			Marcia Fiala			Total Gross Pay
		Hours	Pay Rate	Gross Pay	Hours	Pay Rate	Gross Pay	
12/23/15	12/07/15 - 12/20/15	32.00	\$15.00	\$480.00	N/A	N/A	N/A	\$480.00
12/24/15	12/07/15 - 12/20/15	40.00	\$15.00	\$600.00	N/A	N/A	N/A	\$600.00
01/07/16	12/20/15 - 01/03/16	60.483	\$15.00	\$907.25	N/A	N/A	N/A	\$907.25
01/20/16	01/03/16 - 01/16/16	80.00	\$15.00	\$1,200.00	N/A	N/A	N/A	\$1,200.00
02/05/16	01/17/16 - 01/30/16	80.00	\$15.00	\$1,200.00	80.00	\$18.00	\$1,440.00	\$2,640.00
02/19/16	01/31/16 - 02/13/16	74.50	\$15.00	\$1,117.50	80.00	\$18.00	\$1,440.00	\$2,557.50
03/04/16	02/14/16 - 02/27/16	21.25	\$15.00	\$318.75	80.00	\$18.00	\$1,440.00	\$1,758.75
03/18/16	02/28/16 - 03/12/16	47.50	\$15.00	\$712.50	78.50	\$18.00	\$1,413.00	\$2,125.50
04/01/16	03/13/16 - 03/26/16	41.00	\$15.00	\$615.00	80.00	\$18.00	\$1,440.00	\$2,055.00
<b>Totals</b>		<b>476.73</b>	<b>\$15.00</b>	<b>\$7,151.00</b>	<b>398.50</b>	<b>\$18.00</b>	<b>\$7,173.00</b>	<b>\$14,324.00</b>

*Note: In the payroll documentation provided by the Village, there were two pay stubs for Mr. Moll covering the same 12/07/15 to 12/20/15 pay period. According to the first pay stub, Mr. Moll worked 6 trustee hours and 32 regular hours. However, the second pay stub shows that Mr. Moll worked 40 regular hours and no trustee hours.*

The APA reviewed the Board meeting minutes and noted that the hours worked by Mr. Moll as a "Temporary Clerk" were never formally approved. Certain details about Mr. Moll's work were discussed in meetings, but the specific hours worked were not detailed.

Good internal control requires procedures to ensure that time worked by employees is adequately documented and approved by the Board prior to payment. Without adequate reviews of time worked by employees, there is a risk of loss or misuse of Village funds.

Additionally, Neb. Rev. Stat. § 17-209.02 (Reissue 2012) permits a Board member to perform “seasonal or emergency work” that involves assuming the duties of another Village office, as follows:

*The local governing body of a village may by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except trustee, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time, except that trustees may perform and upon board approval receive compensation for seasonal or emergency work . . . .*

(Emphasis added.) Chapter 17, Article 2, of the Nebraska Revised Statutes provides no definition of “emergency” for purposes of § 17-209.02. Without such guidance, it is necessary to rely upon a long-standing rule of statutory interpretation that requires statutory language to be given its “plain and ordinary” meaning. The Nebraska Supreme Court has utilized this rule numerous times, as follows:

*In the absence of anything to the contrary, statutory language is to be given its plain and ordinary meaning; an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.*

*Nelson v. City of Omaha*, 256 Neb. 303, 311, 589 N.W.2d 522, 527 (1999). Typical of the many virtually synonymous meanings accorded to the word is that provided by Webster’s New World Dictionary and Thesaurus (1996), which defines an “emergency” as “a sudden, generally unexpected occurrence demanding immediate action.” When applied to § 17-209.02, that standard definition appears to entail a necessary and immediate short-term response to a particular exigency.

The Village’s initial action in appointing Mr. Moll as a “Temporary Clerk” seems reasonable in light of any conventional definition of “emergency.” Nevertheless, Mr. Moll held this position for approximately four months – including almost a month and-a-half after Board meeting minutes indicated that his services would be required for only two more days – which could give rise to some concern as to whether the incipient emergency that permitted utilization of § 17-209.02 in the first place continued to exist for that entire period.

We recommend the Board ensure that additional payments to its members for emergency services are statutorily permissible. Board meeting minutes should not only document adequately any compensation for such services but also state as accurately as possible the anticipated time frame during which the emergency services are to be provided. Such documentation is needed to establish a necessary correlation between the respective durations of both the temporary services and the underlying emergency.

*Village Response: The board will adhere to the practices recommended by the APA in hiring a temporary clerk in emergency circumstances for a definite period of time. The board will follow the APA recommendation to employ procedures to ensure time worked by employees is adequately documented and approved by the board in the manner of other claims.*

\* \* \* \* \*

Our limited procedures for this letter were designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Nevertheless, our objective is to use our knowledge of the Village to make comments and suggestions 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 comment and recommendation contained herein. The formal response received has been incorporated into this letter and has been objectively evaluated and recognized, as appropriate, in the letter. Any indication by the Village that corrective action has been taken was not verified at this time.

Additionally, a copy of this letter is being forwarded to the Cass County Attorney for any action deemed appropriate by that office.

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 regarding the above information, please contact our office.

Sincerely,



Mary Avery  
Special Audits and Finance Manager  
mary.avery@nebraska.gov

cc: Cass County Attorney