



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Jesse Grof, Mayor
City of Tecumseh
P.O. Box 417
122 South 4th Street
Tecumseh, NE 68450

Dear Mayor Grof:

As you know, the Nebraska Auditor of Public Accounts (APA) received some concerns regarding the City of Tecumseh, Nebraska (City), including questions regarding the source of financing for the new municipal swimming pool. As a result, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. In doing so, the APA requested certain information from the City. Based upon the outcome of this preliminary planning work, including a review of the information received, the APA has determined it to be unnecessary for our office to perform a separate financial audit or attestation of the City at this time.

During the course of the preliminary planning work, we noted certain internal control or compliance matters, or other operational matters within the City, that are presented below. The following information is intended to improve internal controls or result in other operational efficiencies.

Background

The City began discussing the possibility of building a new swimming pool in early 2016. In April 2016, the City Council (Council) discussed the need for a new pool, noting that such consideration would need to be included in the budget discussions this year. In September 2016, the City entered a Letter of Agreement for Professional Services with Olsson, Inc., for engineering services related to the planned pool. In June 2019, the Mayor signed Amendment 1 to the Letter of Agreement with the planned cost of \$295,000.

In September 2016, the City made its first payment for a geotechnical investigation for a new pool. At about the same time, or shortly thereafter, the City began to transfer general fund monies to the Community Building Fund for the purpose of saving for a new pool.

A more detailed timeline of important events related to the construction of the new municipal swimming pool is provided below:

In January 2019, the Council voted to approve the swimming pool project and to request bids for the project. The Council also provided approval for City staff to obtain short-term and long-term financing proposals. At that time, the cost of completing the project was estimated to be less than \$3 million.

In March 2019, the final option of construction cost was presented at \$2,960,500, which was approved by the Council. At the same meeting, the Council approved a bid from AHRS Construction, Inc., a company operating out of Bern, Kansas, as the pool contractor for \$3,212,000.

Amendment 2 for the design phase of the pool was approved in July 2019 for \$40,000.

In September 2019, the Council approved change Order #1 for the pool project for \$15,108.73. In that same meeting, the Council approved the use of Keno funds to finance the pool project.

Change Order #2 for \$19,693.67 was approved by the Council in January 2020.

In April 2020, the Council approved a change order totaling \$1,327.58.

Due to the coronavirus pandemic, in May 2020 the Council voted against opening the pool for the summer.

In the August 2020 Council meeting, the council approved a motion to accept the proposal of D.A. Davidson Companies, a financial services holding company headquartered in Great Falls, Montana, for pool financing for 15 years. The general obligation various purpose refunding bonds were not to exceed \$2.04 million.

During its August 2020 meeting, the municipal Board of Public Works approved a motion to pay \$15,000 per month for the pool loan payment to the City for the life of the loan.

From information provided by the City, the APA accumulated the source and uses of new pool construction funds dating back to September 2016, as follows:

Pool Sources and Uses of Funds	
Revenues	Totals
Donations	\$ 380,454.63
Loan Income	\$ 2,000,000.00
Miscellaneous	\$ 15,000.00
Transfer In from Lottery	\$ 304,915.50
Transfer in From City Building	\$ 726,212.20
Total Revenues	\$ 3,426,582.33
Expenses	
Capital Improvements	\$ 3,240,417.61
Engineering	\$ 604,321.78
Fees-Permits-Inspect	\$ 876.75
Insurance - Lia, bldg, equip	\$ 416.39
Insurance - workmans comp	\$ 216.01
Loan Payment - Interest	\$ 6,706.83
Repr & maint	\$ 766.81
Supplies & Materials	\$ 12,439.23
Pool Chemicals	\$ 878.42
Utilities - Gas Bill	\$ 86.11
Utilities - E&W	\$ 12,803.45
Total Expenses	\$ 3,879,929.39
Net Income (Loss)*	\$ (453,347.06)

*The City stated that the following expenses were paid for using general fund monies: engineering, repair & maintenance, supplies & materials, pool chemicals, and utilities.

Comments and Recommendations

1. Use of Utility Funds for Pool Loan Payments

As noted in the background section above, in August 2020, the municipal Board of Public Works approved a monthly payment of \$15,000 per month from the utility funds to the City for the payment of the City's pool loan. The following excerpt was taken from the Board's August 3, 2020, meeting minutes:

Consider \$15,000/mo. Pool loan payment to City, for life of pool loan. Motion by Campbell, Second by Blessing to pay \$15,000/mo. Pool loan payment to City for life of pool loan. Voting Aye: Campbell, Murphy Voting Nay: Blessing. Motioned Carried.

The meeting minutes fail to indicate whether a surplus of funds existed, as required by State statute.

Neb. Rev. Stat. § 17-540 (Cum. Supp. 2018) contains the following requirements for the waterworks income:

All income received by cities of the second class or villages from public utilities and from the payment and collection of water taxes, rents, rates, or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed, and the erection and construction of public utilities. If there is any surplus income, such income shall be placed into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the general fund as the city council or village board of trustees may direct. The surplus remaining, if any, may, if the city council or village board of trustees so directs, be invested in interest-bearing bonds or obligations of the United States.

(Emphasis added.) Neb. Rev. Stat. § 17-609 (Cum Supp. 2018) authorizes the disposition of surplus utility funds as follows:

The mayor and city council of a city of the second class or village board of trustees may, by resolution, direct and authorize the city treasurer or village treasurer to dispose of the surplus electric light, water, or gas funds, or the funds arising from the sale of electric light, water, or natural gas distribution properties, by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments may be transferred to the general fund of such city or village.

The aforementioned statutes require an evaluation of the utility funds to determine if an excess exists after the payment of any bonds or warrants due. If an excess exists, the Council and Mayor are required to approve, by resolution, the transfer of utility funds to the general fund.

Because the Council approved \$15,000 per month over the life of the loan, the City would need to ensure that an excess of at least \$180,000 exists each year for the payment of the pool loan.

Upon inquiry of the City Attorney, no resolution was passed for the transfer of funds.

Good internal controls requires procedures to ensure that transfers of excess utility funds are approved by the Mayor and Council through a resolution.

Without such procedures, there is an increased risk for the misuse of City funds, as well as noncompliance with State statutes.

We recommend the Mayor and Council determine if an excess exists in the City's utility funds and, if so, approve a resolution regarding the transfer of utility funds to the general fund for the payment of the pool loan.

2. Council Approval of Payments

The APA also found that, in October 2019, the Council approved a motion to allow the Mayor and City Clerk to approve and process payments for the new pool. The following is an excerpt from the October 7, 2019, Council meeting minutes:

Consider allowing the Mayor and City Clerk to approve and process payment for the Aquatic Center pay application request, to expedite the turn around time on payment. All change orders will still be presented to Council for approval. Motion by Reed, second by Topp to allow the Mayor and City Clerk to approve and process payment for the Aquatic Center pay application request. Voting Aye: Brommer, Goracke, Kluck, Reed, Topp. Voting Nay: None. Motion Carried.

This method to approve City payments is contrary to Nebraska statutes. Neb. Rev. Stat. § 17-708 (Cum. Supp. 2018) states the following:

The mayor and city council of a city of the second class or village board of trustees shall have no power to appropriate or to issue or draw any order or warrant on the city treasurer or village treasurer for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of sections 17-714 and 17-715, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law.

Neb. Rev. Stat. § 17-715 (Cum. Supp. 2018) provides, as set out in relevant part below, the appropriate method for approving and paying municipal claims:

Upon the allowance of claims by the city council of a city of the second class or village board of 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

(Emphasis added.) The above statutory provision requires the Council’s allowance, or approval, of claims prior to the order for their payment.

Good internal controls require procedures to ensure that the Council approves all City claims prior to payment, as specified in State statute.

Without such procedures, there is an increased risk of both noncompliance with Nebraska laws and loss or misuse of City funds.

We recommend the City implement procedures to ensure the Council approves all municipal claims prior to payment, as specified in State statute.

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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 City’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 City.

Draft copies of this letter were furnished to the City to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. The City declined to respond.

This communication is intended solely for the information and use of the City 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.

Audit Staff Working on this Examination:
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Sincerely,



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