

SPECIAL INVESTIGATIVE REPORT

TOWN OF BOKOSHE

BOKOSHE PUBLIC WORKS AUTHORITY

January 1, 2010 through October 31, 2010



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**TOWN OF BOKOSHE
BOKOSHE PUBLIC WORKS AUTHORITY**

SPECIAL INVESTIGATIVE REPORT

JANUARY 1, 2010 THROUGH OCTOBER 31, 2010



Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

June 26, 2013

District Attorney Jeff Smith
Office of the District Attorney, District #16
100 S. Broadway, Room 300
Poteau, OK 74953

Transmitted herewith is our Investigative Report of the Town of Bokoshe and its public trust authority.

Pursuant to your request and in accordance with the requirements of **74 O.S. 2001, § 212 (H)**, we performed an investigation with respect to the Town of Bokoshe and its public trust authority, primarily for the period January 1, 2010 through October 31, 2010.

The objectives of our investigation included, but were not limited to, the areas of concern expressed by the District Attorney's Office. Our findings and recommendations related to those objectives are presented in the accompanying report.

Because investigative procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Town of Bokoshe or its public trust authority for the period January 1, 2010 to October 31, 2010.

Our goal is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

This report is addressed to and intended solely for the information and use of the District Attorney, District #16, and should not be used for any other purpose. Until its release by the District Attorney's office, it may be kept confidential pursuant to the **Oklahoma Open Records Act**, in accordance with **51 O.S. 2011, § 24A.12**.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones".

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

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TOWN OF BOKOSHE
BOARD OF TRUSTEES
(As of January 1, 2011)

James (Sonny) Brewer Mayor
Dale Whitecotton, Sr.....Trustee
Billy RitterTrustee
Judy KingsboroughTrustee
Amanda Stalsworth.....Trustee
Diana Goins Clerk/Treasurer

Introduction

The Town of Bokoshe, Oklahoma is organized under the statutory town board of trustees form of government, as outlined in **11 O.S. § 12-101, et seq.**

11 O.S. § 12-101 states:

The form of government provided by Sections 12-101 through 12-114 of this title shall be known as the statutory town board of trustees' form of government. Towns governed under the statutory town board of trustees form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to towns. Such powers shall be exercised as provided by law applicable to towns under the town board of trustees form, or if the manner is not thus prescribed, then in such manner as the board of trustees may prescribe.

In addition, the Town and its public trust authority are subject to the provisions of other sections in Title 11 (Cities and Towns), as well as other statutes found in various titles including, but not limited to, Title 25 (Definitions and General Provisions), Title 51 (Officers), Title 60 (Property, Chapter 4, Uses and Trusts), Title 61 (Public Buildings and Public Works), Title 62 (Public Finance), and Title 68 (Revenue and Taxation).

The Bokoshe Public Works Authority (BPWA or Authority) is a public trust established under 60 O.S. § 176 *et seq.* The Bokoshe Public Works Authority operates a utility service providing water and sewer service to the residents of the Town of Bokoshe. The Town Board of Trustees serve *ex officio* as the Board of Trustees for the Authority.

A private, independent audit firm audits the Town and the Authority. Audit reports were made available for our review. Any references to the "Town" should be assumed to also apply to the Bokoshe Public Works Authority, unless otherwise specified.

All dollar amounts in this report are rounded to the nearest dollar, unless otherwise indicated. The Town/Authority's fiscal year starts July 1 and ends June 30. In this report, fiscal years are abbreviated by using the ending calendar year. For example, the fiscal year of July 1, 2009, to June 30, 2010, will be identified as "FY10."

At the request of the District Attorney, District #16, the Oklahoma State Auditor and Inspector (OSAI) conducted a special investigative audit of the records of the Town/Authority.

**Fiduciary
Responsibility**

The Board of Trustees for the Town of Bokoshe and Bokoshe Public Works Authority has an obligation to act in the best interest of the Town/Authority as a whole. This fiduciary responsibility requires that all funds belonging to the Town/Authority be handled with scrupulous good faith and candor. Such a relationship requires that no individual shall take personal advantage of the trust placed in him or her. When the Board of Trustees accepts responsibility to act in a fiduciary relationship, the law forbids them from acting in any manner adverse or contrary to the interest of the Town or its public trust authority.

OBJECTIVE I. Determine all monies collected for utility payments were deposited.

Background

The Bokoshe Public Works Authority (the BPWA) provides water and sewer to its customers in the Town of Bokoshe. The customers are billed for these services on a monthly basis, which are due and payable by the 10th of each month. The customer is to remit the stub, torn from the billing card, along with payment to Town Hall.

At the time payment is received, the utility clerk stamps the stub paid and the date paid. Also, the type of payment, check or cash, is recorded on the stub. In the absence of the billing stub the utility clerk records the payment information on a blank stub. The stamped stub is used as the BPWA's receipt.

The customers' paid information is then recorded on a daily cash log which shows their account number, name, amount, and type of payment (check or cash). The data recorded on the daily cash log is then entered into the BPWA's utility billing program.

The money collected is placed in a safe until the deposit is made. The deposits were not made on a daily basis, usually on a weekly basis or when someone was going to the bank. Several employees had the combination to the safe.

The BPWA had no written policy for the utility clerk's duties. Through discussion with the former utility clerks, the primary duty was to prepare utility bills, collect payments, post payments to the customer's accounts, deposit monies collected and pay bills. There were three individuals employed in the position of utility clerk during the period of January 1, 2010 through March 31, 2011.

During an interview with a former utility clerk, Priscilla Caldwell, she stated that she had been the utility clerk for approximately four years prior to being terminated July 22, 2010. During the August 12, 2010, board meeting, Ms. Caldwell was terminated. A trustee confirmed that Ms. Caldwell was put on leave with pay and then terminated in August.

After Ms. Caldwell was terminated, Jonna Robinson took over the duties of the utility clerk, until she was suspended without pay on January 31,

2011. Management could not provide the board minutes showing the date Ms. Robinson was actually terminated.

Kristal Yates began performing the utility clerk's duties after Ms. Robinson was terminated. At the time Ms. Yates took over these duties, she was employed by the BPWA. Ms. Yates' role was to collect and receipt customer payments and enter customer information into the utility program.

The board minutes were sometimes missing and/or we considered them to be unreliable. Through discussions with trustees, former and current employees, and board minutes, the individuals serving in the utility clerk's position and performing those duties were approximately as follows:

- Priscilla Caldwell – January 1, 2010 through July 22, 2010.
- Jonna Robinson – August 1, 2010 through January 31, 2011.
- Krystal Yates – February 1, 2011 through March 31, 2011.

Dianne Goins was the Town of Bokoshe/BPWA Clerk-Treasurer during our audit period. As reflected in the Town's ordinance book, one of the treasurer's duties is to "deposit daily" all funds coming into their hands.

The ordinance book did address the duties of the BPWA Clerk-Treasurer, but those duties could be considered to be similar to and coincident with the Town Clerk-Treasurer duties.

Procedure

We obtained the bank statements from January 1, 2010 through March 31, 2011 to conduct an analytical review of the cash deposited each month. The procedures allowed us to determine if there was a trend in the relationship of the cash deposited to the individual employed as utility clerk for that particular period.

To further investigate the possible missing money, we obtained the stubs/receipts and daily cash logs from January 1 through October 31, 2010. The receipts and logs were usually bundled in packets for the week ended and not on a daily basis. We prepared worksheets listing the stubs/receipts by date paid, customer, and type of payment received, check or cash. We compared by month the total checks and cash receipted to the amounts deposited per the bank statements to determine if all monies collected were deposited.

Finding #1

Internal controls were weak to nonexistent for utility collections. Some records were unreliable and/or missing.

During our review of the utility collections and deposits, the following problems were observed:

- Receipts were not reconciled to the deposits on a daily basis.
- The BPWA Treasurer did not *deposit daily* all monies collected. Deposits were made on a weekly basis, more or less, instead of daily, as required by statute and as indicated by the town's ordinance Article 5, Section 1.7 for the *Town* Treasurer.
- Some cash collections were used to make payments to vendors, rather than being deposited, *an extremely poor management practice*, which caused the revenue/collection records to be more difficult to reconcile to bank deposits.
- Payroll and personal checks were being cashed for employees, another poor management practice which undermines internal controls and reconciliation procedures.
- The revenue collections were not secured, as the combination to the safe was known by a variety of individuals.
- The same person prepared the deposit, took it to the bank and in some instances receipted the collections, a situation otherwise known as inadequate segregation or separation of duties.
- Management was unable to provide cash receipt logs and receipt stubs for the weeks ended of March 12 and July 30.

The daily cash logs and receipts for the months of January through May 2010 were supported by a deposit ticket for the time frame shown on the log. Attached to the deposit ticket were copies of the customer's check for the payments that had been made. The remaining months in our audit period, except for August, did not have the deposit tickets and checks attached.

Finding #2

In addition to the exceptions listed above, the BPWA utility clerk was not utilizing the billing program to prepare applicable reports.

The program is capable of preparing a "Deposit List – Daily Receipts" report which shows the customer's account number and name, date of payment, type of payment (check or cash), and amount paid. *If* the customer payment information was posted to the billing program on a

daily basis, this report could be printed and reconciled to each day's deposit of utility collections. However, in addition to the other lack of controls listed above, this feature of the utility billing program was apparently not being utilized as designed to reconcile daily collections to daily deposits.

We contacted the software company, and they were able to provide us with a monthly "Deposit List – Daily Receipts" report for the audit period. We compared the dates on the available receipt records to the payment dates on the system reports, noting that they did not necessarily match. The differences in the dates indicated that the customers' information was not posted in the billing program in a timely manner.

Due to the receipt information not being timely recorded, the reports were not accurate and could not be relied upon for our audit purposes.

Finding #3

The results of our analytical review show a significant drop in cash deposited for June 2010, and September 2010 through January 2011.

During the month of June, the former utility clerk (Priscilla Caldwell) stated that she was on vacation. The months during which the amount of cash deposited declined notably were those for which Jonna Robinson was primarily responsible for the bank deposits. After January 2011, cash deposits increased significantly, following the termination of Robinson. See the chart of cash deposits in the Appendix.

With the documentation available, we compared the receipts to deposits noting the following variances for monies deposited over/under the amount receipted. The variances reported below include adjustments to checks and cash for the cash payments to vendors, for which there was some alleged documentation, and the practice of cashing checks for employees. These adjustments were made to estimate a more accurate amount for the checks and cash receipted, but not deposited.

Month	Receipts	Deposits	Variance	Check	Cash
October 2010	\$11,832.66	\$8,692.51	\$ (3,140.15)	\$ (292.71)	\$ (2,847.44)
September	9,448.56	9,253.99	(194.57)	1,156.33	(1,350.90)
August	10,227.67	10,724.26	496.59	770.04	(273.45)
July	6,172.85	10,897.99	(see Note)		
June	8,941.47	7,548.16	(1,393.31)	653.58	(2,046.89)
May	11,452.20	11,578.55	126.35	116.62	9.73
April	10,455.97	10,615.92	159.95	.45	159.50
March	6,475.75	10,639.72	(see Note)		

TOWN OF BOKOSHE/BPWA
RELEASE DATE: June 26, 2013

February	12,223.04	12,069.29	(153.75)	(317.35)	163.60
January 2010	5,050.70	4,902.66	(148.04)	36.41	(184.45)
Total	(see Note)	\$96,923.05	\$ (4,246.93)	\$2,123.37	\$ (6,370.30)

Note: March and July had missing receipt records, preventing the comparison and total.

The schedule above shows that \$6,370.30 cash collected was apparently not deposited and \$2,123.37 more in checks were deposited than receipted with a net amount of \$4,246.93 in cash collected not being deposited. The variances do not include any amounts for the months of March and July due to management not being able to provide all receipt documentation required for the comparison.

We further reviewed the bank deposits for the final more or less three month period that Ms. Robinson prepared deposits and noted the following amounts of cash deposited, versus the significant increase in cash deposited following the termination of Ms. Robinson in January:

Month	Total Cash Deposits
Nov 2010	\$400.00
Dec 2010	\$620.00
Jan 2011	\$600.00
Feb 2011	\$2,653.00
Mar 2011	\$2,370.00

Our test of receipts to deposits indicated the same results as our analytical comparison of the cash deposited. During the period that Ms. Robinson was in control, there was less cash deposited than would be expected from the available receipt records. We made several attempts to contact Ms. Robinson for an explanation of the variances, but were unable to arrange an interview with her.

The variances above could have several explanations. Analytical procedures alone are generally insufficient to provide anything more than “circumstantial” evidence of misappropriation.

In addition, the information developed in the following Objective II *could indicate* that generally poor recordkeeping and a lack of controls caused a commingling of utility and court collections to the extent that some of the above alleged missing cash and check deposits may be partially accounted for in excess cash and check deposits in the municipal court collections.

Without additional procedures being performed, and at a cost likely to be greater than the amount of any potential misappropriation that could be substantiated, we determined the information developed above to be not conclusive.

- Recommendations**
1. The Board should establish and implement policies and procedures to ensure daily collections are reconciled to daily deposits, and those deposits are made on a daily basis.
 2. The Board should establish and implement a policy to prohibit payroll and/or personal checks from being cashed from collections and implement periodic “spot check” reviews of deposits on hand to verify the policy is *strictly enforced*.
 3. The practice of paying vendors cash from collections should also be prohibited and strictly enforced, with statutorily proper procedures being utilized for purchasing and budgetary control.
 4. Controls should be implemented to assure that all public records are secured and maintained, in accordance with the statutory requirements for municipal record retention found at **11 § 22-131**.
 5. Since an adequate segregation of duties is not possible with only one or two staff members in the office, the Board should establish controls to help mitigate or lessen the risks involved, including:
 - a) Contracting with a bank for “lock box services” to collect utility service payments for the Town/BPWA and encouraging their utility customers to mail check and/or money order payments direct to the bank. This could segregate the duties of “billing” from “collecting” for at least some of the utility collections.
 - b) Obtain more training for office staff to utilize the utility billing software as designed to provide the Board with more information to review at its monthly meetings, such as monthly billings to compare with related collections and posting reports, and a late payment/delinquent list report to compare to the difference between billings and related collections.
 - c) Consider utilizing the services of internet based credit/debit card processors, such as www.officialpayments.com, currently used by the Le Flore County Treasurer for credit card payments of county property taxes. Such services will usually charge a processing fee paid by the customer and could reduce the number of people paying in person.
 6. The District Attorney should review these findings to determine if further action is warranted.

OBJECTIVE II. Determine all monies collected for municipal citations were deposited.

Background

The Town of Bokoshe operates a Municipal Court not of record, created under 11 O.S. § 27-101 through § 27-132. The municipal court has jurisdiction to hear and determine all prosecutions for violations of ordinances charged in the Town of Bokoshe. If the municipal clerk does not act as the court clerk, the position is filled by the board of trustees.

According to 11 O.S. § 27-109, the court clerk shall have authority to carry out the duties of the position as required by law, provided that the person who serves as court clerk may separately perform other duties for the municipality. The clerk of the court shall:

- Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;
- Administer oaths required in judicial or other proceedings before the court;
- Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;
- Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and
- Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

The position of the court clerk was filled by the same individual(s) employed as the utility clerk, as reported in the previous finding.

The Town had established a police department fund bank account. The account was used to deposit citation revenues and pay expenditures. After February 16, 2010, the citation revenue was deposited into the general bank account. The police department bank account became inactive after February 22, 2010.

Procedure

To document all traffic citations issued by the Town of Bokoshe, we requested the Court Clerk's log showing the citation books used and the officer receiving the citation book. Management was unable to provide a ticket log listing the ticket book and the officer it was issued to. The current police chief indicated a log had been maintained and said it should be at Town Hall, but no such record could be located.

We requested the receipts books covering our audit period used for citation collections. The clerk provided us with two receipt books, but they only covered the period from January 1, 2010 through July 22, 2010. Management could not provide us with the receipts issued from July 22, 2010 through October 31, 2010. With the available documentation we attempted to verify monies collected per receipts to deposits in total for the period January 1, 2010 through June 30, 2010.

Findings

During our examination of the traffic citation revenue, we noted the following exceptions:

- Management could not provide a log for the citation books issued, and the officer receiving the book(s).
- The court clerk(s) did not maintain a docket book or other record that listed all citations issued.
- Management was not able to provide all court dockets, only July and August 2010 court dockets were provided.
- These court dockets did not appear to record the *disposition* of the case, whether a fine was levied and received or the bond was returned.
- Management could not provide receipts for the period of July 22 through October 31, 2010.
- Traffic citation revenue and general fund revenue were included on the same deposit slip.
- The Treasurer did not deposit monies collected on a daily basis as required by 11 O.S. § 12-110 (2).
- Receipts were not reconciled to the deposits.
- There was no segregation of duties in that the same person was recording and reporting court transactions, preparing the deposit and taking the deposit to the bank and, in some instances, collected and receipted the money received.

There were only receipt books for the period January 1, 2010, to July 22, 2010, that could be tested. Since the receipts were not deposited on a daily basis and there appeared to be no particular order in which a receipt was deposited, we were unable to trace each individual receipt to the deposit.

We prepared a schedule of receipts for the period of January 1, 2010 through June 30, 2010, to document the total by check and cash. We compared the total checks and cash received to the total checks and cash deposited per bank statements to determine whether all receipts collected were deposited, noting the following variances:

	Checks	Cash
Receipts	28,159.05	8,113.00
Deposits	35,329.73	11,885.40
Excess Deposits	7,170.68	3,772.40

The comparison shows the deposits were more than the receipts in the amounts of \$7,170.68 and \$3,772.40 for checks and cash, respectively. Based on this information it was possible that receipts were not being issued for all monies received, *or more likely*, that there are missing receipt records that would account for the overage.

Additionally, we were unable to determine the disposition of citations issued, making reconciliation of fines and bonds collected to tickets issued virtually impossible, since management could not provide us with docket documentation that recorded what the court had decided for each citation.

Due to the lack of documentation and inadequate record keeping, we were unable to determine if all monies collected for the payment of traffic citations were deposited. We observed that the time period of missing court receipt records coincided with the timeframe of Ms. Robinson working as utility and court clerk and performing those duties (August 2010 to January 2011).

Recommendations We recommend that the Town Board of Trustees:

1. Provide for training of a part-time position of court clerk. Such training can be obtained from the Oklahoma Municipal League, the OSU Extension Service (which provides training for district court personnel) and/or from some nearby larger municipal court clerk office to develop the recordkeeping and office procedures necessary for adequate court records and financial records of court transactions.

2. Enforce its own town code policy, as well as statute, to ensure the Town Treasurer deposits court monies collected on a daily basis, as required by **11 O.S. § 12-110 (2)**.
3. Establish and implement policies and procedures to ensure the court clerk reconciles the receipts to the deposits on a daily basis.
4. Segregate duties, so that to the greatest extent possible, the *same person* is not collecting, receipting, preparing the deposits, and taking the deposits to the bank.
5. One possible method of segregating duties would be to contract for “lock box services” with a bank to receive court collections by mail and/or consider utilizing the services of internet based credit/debit card processors, such as www.officialpayments.com or www.courtpay.org/state/ok/, which provides services for a number of smaller Oklahoma municipal courts.
6. Consider reinstating a municipal court bank account to keep court transactions for bonds and fines separate from other transactions, until a fine is actually levied and the revenue recognized for transfer to the General Fund. Various fees *required* to be collected for such agencies as the OSBI, CLEET, Department of Public Safety and others could be paid from this court account and not affect the budgetary activity of the General Fund.

Other Findings and Issues Reviewed.

During the course of our investigative audit, other issues were noted or brought to our attention to be reviewed. The following are our findings and conclusions on these other issues.

ISSUE #1: Inadequate Board Responses to Annual Audit Comments

Finding **The Board’s responses were inadequate to provide effective correction for repeated audit report findings by their CPA audit firm.**

Since the FY08 audit report, the Town Board had repeatedly failed to implement corrective measures for multiple findings noted in its annual audits.

Audit Report Findings	FY08	FY09	FY10	FY11
Inadequate segregation of duties	X	X	X	X
Bank reconciliations not performed	X	X	X	X
General ledger not maintained	X	X	X	X
Revenue not classified and inadequate documentation	X	X	X	X
Inadequate meter deposit records	X	X	X	X
Inadequate capital asset records	X	X	X	X
USDA loan noncompliance – related to inadequate water and sewer revenue and expense records		X	X	X
USDA loan noncompliance – related to <i>unauthorized</i> drawdown of loan reserve			X	X

Despite repeated findings by the CPA firm performing its annual audit, the responses from the Town Board have been wholly inadequate to address the problems identified.

The FY10 and FY11 repetitive responses included:

- “The Board continues to be actively involved in the operations of the Town.”
- “Personnel that were responsible for these functions are no longer with the Town.”
- “The Town has considered using QuickBooks to maintain a double-entry general ledger system.”
- “The Town has experienced turnover...the documentation and classification problem is expected to be improved in future years.”
- “The Town hopes to improve this for future years.”
- “The Town is aware of the problem and currently does not have the resources to correct this problem.”
- “The Authority was not aware of the (USDA) requirement.”
- “Current management is not sure what happened to the (loan reserve) account but is aware that a new one needs to be established.”

The Town/BPWA Board is the group of elective officials responsible for implementing internal control measures, policies and procedures necessary to ensure that adequate financial and accounting records are complete and accurately and timely maintained. The Board is responsible for effective oversight to ensure its policies and procedures are in place and operating as designed.

The Town Board is to some extent culpable for the problems identified in this report by failing to act to correct the issues repeatedly brought to their attention by the independent audit firm during the Town’s annual audit.

ISSUE #2:

Alleged Conflicts of Interest

Background

During our examination of the records at Town Hall, it was brought to our attention that a Board Trustee’s son, Jarrod Ritter, was being paid for mechanic work on the Town’s vehicles and that fuel was being purchased at a business, RJ’s Corner Mart, owned by a Board Trustee, Judy Kingsborough.

11 O.S. § 8-113 is the municipal conflict of interest statute and states in part, “...no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary

interest, shall engage in...” transacting business with the municipality. This statute also provides some other explanations and definitions for what constitutes a statutory “conflict of interest.”

60 O.S. § 178.8 is the public trust conflict of interest statute and states in part:

“...a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust.”

We reviewed the bank statements and purchase orders to document payments to Jarrod Ritter and/or RJ’s Corner Mart.

Finding #1

We noted payments totaling \$8,330.00, \$255.00, and \$335.00 from the General Fund, police department, and BPWA bank accounts, respectively, to Jarrod Ritter. In addition to the payments made by checks to Jarrod Ritter, he also received some payments in cash. It was noted in Objective I of this report that management policy had permitted vendors to be paid in cash, rather than through the normal purchasing process.

During conversation with Billy Ritter, Board trustee, he stated that he owned the shop building in which his son did the mechanic work. He did not receive any compensation from his son and did not own twenty-five percent (25%) or more of his son’s mechanic business, as prohibited in **11 O.S. § 8-113**. He said that on occasion his son did help with the electric bill for the property.

The Town’s records indicate the payments were made to the Trustee’s son for automotive maintenance. The **Title 11** conflict of interest statute applies to officer(s), employee(s), spouse(s) or business(es) in which those individuals have a propriety interest. The transactions with Jarrod Ritter would not appear to be a “conflict” under those circumstances, unless Trustee Billy Ritter had a proprietary interest of sufficient percentage in his son’s business.

Finding #2

During the audit period, payments totaling \$4,863.05 and \$2,510.81 from the Town General and BPWA bank accounts, respectively, were made to Poteau Petroleum Products. Although the fuel was purchased at the board member’s convenience store, the fuel distributor apparently billed the

Town or BPWA separately for the purchases and payment was remitted directly to the Poteau based company. We did not identify any payments directly to RJ's Corner Mart.

An individual at Poteau Petroleum Products stated that RJ's Corner Mart did not receive any benefits from them for the Town's fuel purchased at the store. Also, Ms. Kingsborough stated that she did not receive payment from Poteau Petroleum Products for the fuel they had billed to the Town.

We observed that **11 § 8-113(B)** provides that for certain small municipalities with limited retail outlets, the legislature has created some additional clarification for what it considers to be a "conflict of interest" that should be prohibited. This subsection permits a board member of a small municipality to sell "*items ... regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.*"

We concluded the circumstances related to RJ's Corner Mart were not a "conflict of interest" as defined by **11 § 8-113(B)**.

Recommendation Public disclosure should be made by any board member involved in a situation that gives the appearance of a possible conflict of interest.

ISSUE #3: **Possible Nepotism Issue**

While examining the records to determine if a conflict of interest existed between the Town or BPWA and Trustees, we noted a possible violation of the nepotism law.

Finding Trustee Billy Ritter's son, Jarrod Ritter, was paid \$75.00 to assemble a table and four (4) chairs at the police department and \$350.00 to paint the porch at the police department. His daughter-in-law, Danielle Ritter, was paid \$164.00, \$75.00, and \$35.00 for cleaning town hall, cleaning carpet in the police department, and cleaning the police department, respectively.

These payments were made to the two individuals in cash from monies that had been collected as revenue. The payment of relatives within the third degree is a violation of 21 O.S. § 481 which states:

- A. It shall be unlawful for any executive, legislative, ministerial or judicial officer to appoint or vote for the appointment of any person related to him by affinity or consanguinity within the third degree, to any

clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages, pay or compensation of such appointee is to be paid out of the public funds or fees of such office. Provided, however, that for the purposes of this chapter, a divorce of husband and wife shall terminate all relationship by affinity that existed by reason of the marriage, regardless of whether the marriage has resulted in issue who are still living.

Recommendation Although the transactions were not large in amount, they should be avoided in order to not create the appearance of impropriety or the potential of violating **Title 11** and **Title 21** nepotism statutes.

ISSUE #4: **Gun Purchases**

It was brought to our attention that the Town had paid for guns purchased by the former Chief of Police, Shane Robinson for his personal use, and the Town may have not been reimbursed. Also, information was obtained from a pawn shop showing the Town had purchased a shotgun, but the serial number listed did not match any of the guns in the Town's possession.

Procedure To document the guns purchased, we reviewed the purchase orders and documentation from the vendors provided by the current chief of police. After identifying the gun purchases, we reviewed receipts, Shane Robinson's payroll records, and bank deposits to determine if Robinson had reimbursed the Town for the purchase price of the guns he allegedly obtained for his personal use.

We checked the serial number listed on the vendor's receipt against the serial numbers of the shotguns in the Town's possession.

Finding We noted firearms purchased by the former Chief of Police, Shane Robinson, for his personal use, while employed by the Town of Bokoshe. The following shows the timeline and process of the guns purchased.

Taurus Model PT1911 pistol:

1. November 3, 2009 - The pistol and ammunition was purchased from JR's Pawn and Gun at a cost of \$593.00.

2. December 4, 2009 – Records at Poteau Pawn and Gun indicated this Taurus was traded-in for the Sig Sauer Model 1911 reported later in this section and subsequently sold to an individual from Wister, OK, on December 29, 2009.
3. December 10, 2009 - Purchase order 09-10-0334 was encumbered and approved. Check no. 2350, Police Department Fund, was issued and paid by the bank on December 18, 2009.
4. A weekly payroll deduction of \$24.71 was made until the purchase price of the pistol had been reimbursed to the Town, with the final deduction being made in mid-August 2010.

The above timeline indicates former Chief Robinson purchased the pistol and subsequently traded it off, before the Town had even issued a purchase order and check for the payment.

Bushmaster M-MX15 rifle:

1. February 26, 2010 - Rifle and holster purchased from Wister Pawn and Gun at a cost of \$1,230.00.
2. March 9, 2010 - Receipt no. 090665 issued to Shane Robinson for the amount of \$1,000.00. It was noted on the receipt that this was for the payment of AR15. The receipt documents the payment consisted of \$800.00 cash and a \$200.00 check.
3. March 11, 2010 purchase order, #09-10-0565 and check no. 3556 issued for payment.

During our initial attempt, we were unable to verify former Chief Robinson had reimbursed the Town for the purchase price of the rifle. We found no receipt or deposit for the amount. Subsequently, while searching through filing cabinets containing documents that were piled in the drawers in no type of order, we discovered a receipt book. Contained in the receipt book was the receipt issued to Shane Robinson.

Since the Clerk-Treasurer was not making deposits on a daily basis, cash payments were being made to vendors and payroll and personal checks were being cashed for employees, we were unable to verify when or if the \$800.00 cash on the receipt was actually deposited. Also, we reviewed the General Fund bank account deposit tickets for March, April, May and June 2010, but found no check for the amount of \$200.00 from former police chief Robinson being deposited.

Additionally, due to the chaotic nature of the records and management not being able to provide all records, we could not determine if the remaining \$230.00 balance had or had not been paid to the Town.

Remington Model 870 shotgun:

1. March 2, 2010 – The shotgun was purchased from Poteau Gun and Pawn at a cost of \$300.00, but under the Town's name.
2. March 2, 2010 – Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Form 4473 shows Cortney Aarren Whitecotton as the buyer.

We did not find a purchase order or paid check for the purchase and payment of the shotgun. The Police Department has a Remington Model 870 shotgun in their possession, but its serial number does not match the serial number listed on the sales ticket.

Additionally, we found no documentation to support Mr. Whitecotton was an employee of the Town. We attempted to contact Mr. Whitecotton by telephone, but we were unsuccessful in making contact with him to discuss this gun purchase.

Sig Sauer Model 1911 pistol:

1. June 14, 2010 – Town General Fund check no. 3802 was issued to Poteau Pawn and Gun for a \$572.50 payment on this pistol.
2. August 7, 2010 – Former Chief Robinson pawned the pistol at Poteau Pawn and Gun, for \$489.38.
3. January 4, 2011 - Poteau Pawn and Gun sold the pistol for non-payment of loan.

An individual at Poteau Pawn and Gun thought that the Taurus Model PT1911 mentioned at the beginning of this section had been traded in for this Sig Sauer pistol. He indicated the payment in June 2010 would have been for the balance of the apparently more expensive Sig Sauer pistol. The ATF Form 4733 Firearms Transaction Record indicated the actual sale of this Sig Sauer occurred December 4, 2009, i.e. the date of the Taurus trade-in.

On August 7, 2010, Robinson pawned the Sig Sauer pistol for \$489.38. Due to the failure to redeem the pawn ticket for the weapon, the pawn shop sold it on January 4, 2011. Since this weapon had been at least partly purchased with Town funds, at the time Robinson received the cash for

pawning of the gun, he appeared to be in violation of **21 O.S. § 341** which states, in part:

Every public officer of the state or any county, city, town, or member or officer of the Legislature, and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state or any bureau or fund created by law and in which this state or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer's or person's hands or money to be raised through an agency for state, city, town, district, or county purposes;

- Recommendations**
1. The Board should establish policies and procedures to assure the Town's purchasing is done for public purposes and not abused by its employees or officials.
 2. The District Attorney should review this finding to determine if further action is necessary.

ISSUE #5: Extra Paychecks Were Issued to the Former Police Chief

Background

Employees for the Town of Bokoshe are paid on a weekly basis, each Friday. At the monthly board of trustee meeting, the payroll for the month was approved, and the paychecks were signed for subsequent distribution. The signed checks were placed in the Town's safe for distribution on pay day.

For the calendar year 2010, there was a total of fifty-three pay periods for an employee being paid each Friday.

The former chief of police was paid a salary of \$341.50 per week (reflecting a deduction for the Taurus pistol purchased in December 2009), at the beginning of 2010, \$371.97 per week for the balance of 2010 (once the Taurus had been apparently reimbursed to the Town) and a \$10 per day "insurance allowance."

Procedure

We reviewed former police chief Robinson's payroll records to determine if he had sufficiently reimbursed the Town for his gun purchase. This review involved preparing a list of payroll checks issued to Robinson for the calendar year 2010.

We compared the checks issued to Robinson to the number of pay periods in the 2010 calendar year to confirm he received only one pay check per pay period, and it was not received in advance. Also, we reviewed the employee's vacation and sick leave policy.

We compared the amount reported on Robinson's W-2 to the total wages and benefits he received for the calendar year 2010.

Findings

We noted a total of sixty-two payments to former police chief Robinson during the calendar year 2010. The sixty-two payments included sixty payroll checks, one payment in cash, and one payment was for a week of vacation leave. Based on this information, Robinson received a total of sixty-one payments (61) for salary, instead of the fifty-three (53) pay periods we expected, and one payment for a week of vacation leave.

We noted the following exceptions for the salary received by former Chief Robinson for the 2010 calendar year:

- The payroll checks were received in advance of the pay periods.
- The purchase orders did not always list the check number that coincided with the purchase order and in some cases the check number list was not issued or did not agree.
- Robinson received pay checks for eight additional pay periods that exceeded his annual salary, but were not reported on his 2010 W-2 form.
- In lieu of insurance being provided by the Town, an insurance allowance was paid to Mr. Robinson, but not recorded on his W-2, as additional compensation. Management could not provide us with written documentation of how the insurance allowance was determined.

Management was unable to provide us with a written copy of their employee leave policy to determine whether the paycheck for the one week vacation leave was authorized.

The 2010 W-2 form issued for Robinson reflected a weekly pay amount of \$382.54 for 52 pay periods, or a total annual pay amount of \$19,892.02. We calculated a total of \$22,378.84 for paychecks issued in 2010, indicating the extra paychecks had not been reported to the CPA firm for inclusion in the 2010 W-2 amounts.

Recommendations The Board of Trustees should establish policies and procedures to ensure that:

1. Payroll transactions represent payment for services actually rendered and not pay *advances*, contrary to statute and State Constitutional provisions.
2. Purchase order records accurately reflect the necessary information to match paycheck records.
3. All taxable benefits are recorded on the employees' W-2 forms.
4. The Town's leave policy is be documented by Board resolution.

Additionally, we recommend the Board of Trustees review all payroll payments to determine if other employees could have been overpaid and possibly seek reimbursement for any overpayment.

We recommend the District Attorney review this finding to determine any further action necessary.

ISSUE #6: **Outdated and Erroneous Town Code**

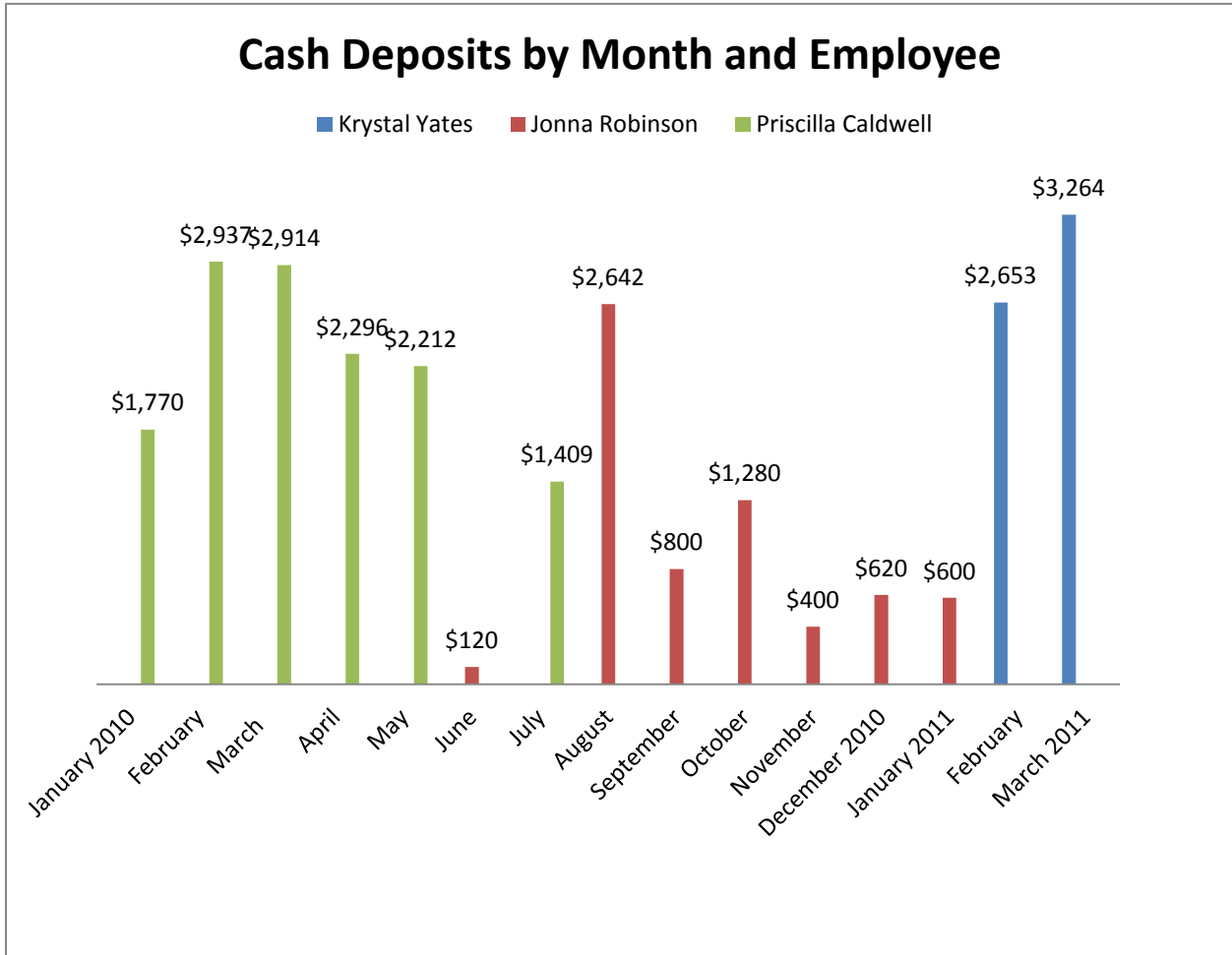
Background On October 10, 1998, the Board of Trustees passed and approved the Town Code. This code book was compiled, arranged, and printed with assistance from Kiamichi Economic Development District of Oklahoma (KEDDO). Certain ordinances follow Oklahoma Statutes, which are cited in the code sections.

Procedure We obtained the Town Code to determine if certain ordinances and cited statutes were being followed as the "policy and procedures" authorized by the Board.

Finding Even though the Town Code was developed with the assistance of KEDDO and approved by the Board of Trustees in 1998, some of the statutes quoted had been repealed by statute changes as early as 1947. It was apparent that the Town Code needed significant review and updating to assure its provisions are factually correct and current with the 2011 edition of Oklahoma Statutes.

Recommendation We recommend the Board obtain legal and administrative assistance to review its Town Code, in order to assure all information, policies and code sections are current and reflect present statutory language.

DISCLAIMER In this report, there may be references to state statutes and legal authorities that appear to be potentially relevant to the issues reviewed by the Office of State Auditor and Inspector. The State Auditor and Inspector has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law-enforcement, and judicial authorities designated by law.





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