

CITIZENS PETITION REQUEST

TOWN OF COPAN

July 1, 2014 through October 31, 2015



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

TOWN OF COPAN
WASHINGTON COUNTY, OKLAHOMA
CITIZENS PETITION REQUEST
JULY 1, 2014 THROUGH OCTOBER 31, 2015

This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by **74 O.S. § 212(L)**, has not been printed but is available on our agency's website (www.sai.ok.gov) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Prairie Collection, (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to **65 O.S. § 3-114**.



Oklahoma State Auditor & Inspector

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

October 27, 2016

To the Petitioners and Citizens of the
Town of Copan:

Pursuant to your request and in accordance with the requirements of **74 O.S. § 212(L)**, we performed a petition audit with respect to the Town of Copan for the period July 1, 2014 through October 31, 2015.

The objectives of our audit primarily included, but were not limited to, the concerns noted in the citizens petition. The results of this audit, related to these objectives, are presented in the accompanying report.

Because the investigative procedures performed 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 Copan for the period July 1, 2014 through October 31, 2015.

The goal of the State Auditor and Inspector 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. We also wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our engagement.

This document is a public document pursuant to the Oklahoma Open Records Act, in accordance with **51 O.S. §§ 24A.1, et seq.**

Sincerely,

A handwritten signature in blue ink, reading "Gary A. Jones", is positioned above the printed name.

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

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Town Officials
(As of October 31, 2015)

David Long Mayor
Jeff Roe Vice-Mayor
Dale Honas Trustee
Carlton Richesin Trustee
Donna Stephens Trustee
Vacant Town Clerk
Vacant Town Treasurer

Current
(As of October 25, 2016)

David Long Mayor
Jeff Roe Vice-Mayor
Dale Honas Trustee
Carlton Richesin Trustee
Donna Stephens Trustee
Pete Elkins Town Clerk
Wendy Wickham Town Treasurer

CITIZENS PETITION OBJECTIVES

The citizens of the Town of Copan requested the following be investigated as part of the 'Citizen Petition Request for Special Audit' by the State Auditor and Inspector:

- I.** Possible irregularities in board approval and authorization of expenditures.
- II.** Review the Town's hiring practices and compensation of town employees.
- III.** Review possible discrepancies in Copan Public Works Authority (CPWA) utility records, including past due/delinquent accounts, late fees and account adjustments.
- IV.** Possible violations of the Oklahoma Open Meeting Act and Open Records Act including but not limited to public notice and use of Executive Session.
- V.** Review the relationship between the town board, CPWA, and the Copan Community Action Team.

INTRODUCTION

The Town of Copan (Town) 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 11-12-101 through 11-12-114 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.

The Copan Public Works Authority (CPWA) is a public trust established under **60 O.S. §§ 176 et seq.** The Authority operates a utility service providing water, sewer, garbage, gas and electric service to the residents of the Town. The Town Board of Trustees serves ex-officio as the Board of Trustees for the Authority.

In accordance with a "Citizen Petition Request for Special Audit" verified by the Washington County Election Board Secretary on December 2, 2015, the Office of the State Auditor and Inspector has conducted a petition audit of the Town of Copan, primarily related to the concerns noted in the accompanying *Table of Contents*.

The results of our inquiry are included in the following report and were prepared for the citizens and registered voters of the Town, along with officials with oversight responsibilities.

BACKGROUND

Prior to the commencement of fieldwork, petitioners were interviewed to obtain detailed information related to the broad range of concerns identified in the citizen's petition. The petitioners defined nineteen (19) specific concerns which are summarized below. These are the issues addressed during the course of our investigation.

1. The petitioners requested a clear definition of the treasurer's duties.
2. The petitioners expressed a concern that a street had been paved and a fire truck purchased from CPWA funds rather than using the General Fund.
3. The petitioners questioned whether town officials had been properly charged penalties for late utility payments.
4. The petitioners questioned the town board's authority to appoint a deputy clerk and treasurer.
5. The petitioners alleged that the deputy clerk had signed a document purporting to be the town clerk.
6. The petitioners questioned that the deputy clerk did not live within town limits.
7. The petitioners expressed a concern that a town email had been deleted concerning a window tinting contract.
8. The petitioners expressed a concern that town ordinances were missing or not maintained at Town hall.
9. The petitioners questioned the appropriate use of executive sessions in board meetings.
10. The petitioners alleged a utility customer was not charged the proper utility connection fees.
11. The petitioners asserted that an excessive petty cash fund had been established at \$1,000.
12. The petitioners alleged that a town sales tax continued to be collected after the official tax proposition had expired.
13. The petitioners alleged playground equipment had been purchased from the Copan Community Action Team (CCAT) but had not been delivered.

BACKGROUND, Continued

14. The petitioners claimed that the mayor's newsletter, included with utility billings, included a political agenda.
15. The petitioners questioned that a customer had been issued a refund erroneously.
16. The petitioners questioned the deputy clerk's time reporting.
17. Petitioners expressed a concern that an individual was paid for almost one year of contract labor, to set up computers and install utility software, but had never been officially hired by the Board.
18. The petitioners expressed a concern that an ordinance authorizing the addition of a \$2 fire protection fee to utility bills was not published.
19. The petitioners questioned the approval of the FY2016 budget.

Concern 1	Treasurer's Duties
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Background The petitioners requested a clear definition of the treasurer's duties.

Finding **The treasurer's duties are defined in state statutes.**

The duties of the town treasurer are established by **11 O.S. § 12-110**, which provides:

The town treasurer shall be an officer of the town. The treasurer shall:

1. maintain accounts and books to show where and from what source all monies paid to him have been derived and to whom and when any monies have been paid; and
2. deposit daily funds received for the town in depositories as the board of trustees may designate; and
3. have such other powers, duties, and functions related to his statutory duties as may be prescribed by law or by ordinance. The person who serves as town treasurer may be employed by the town to perform duties not related to his position as town treasurer. The salary, if any, for said duties shall be provided for separately by ordinance. The books and accounts of the town treasurer shall be subject at all times to examination by the board of trustees.

The town treasurer's responsibilities are also defined in Section 2-402 of the Copan Town Code. The duties in the town code essentially mirror those defined by state law.

Concern 2	Purchase of Fire Truck and Street Improvements
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Background The petitioners expressed a concern that a street had been paved and a fire truck purchased from CPWA funds rather than using the General Fund.

Finding **CPWA funds may be used for street improvements and to lease purchase a fire truck.**

On November 24, 2015, the CPWA Board accepted a bid for street resurfacing and approved the execution of an agreement to lease purchase a truck for the fire department.

The CPWA was created on March 16, 1978, pursuant to their Trust Indenture the trust was created for the use and benefit of the Beneficiary. The Trust Indenture identifies the Beneficiary as the Town of Copan.

The purposes of the CPWA, as defined in the Trust Indenture include:

To acquire, construct...purchase, install, equip, maintain,
repair...for use by the Beneficiary...

Based on the creation and purposes of the CPWA, as defined in the Trust Indenture, it appears CPWA funds can be used for the benefit of the Town of Copan (Beneficiary) including lease purchasing a truck for the fire department and resurfacing streets.

Concern 3

Penalty Fees For Late Utility Payments

Background

The petitioners questioned whether town officials had been properly charged penalties for late utility payments.

Finding

Penalties were not assessed for late payments on one individual's utility account for a three month period, prior to the individual becoming an official of the Town.

We reviewed utility transaction history reports for town officials for the period July 2014 through October 2015.

Utility transaction account history reports for two officials did reflect late utility payments. Mayor Long's account showed six late payments. In each instance late fee penalties were assessed totaling \$179.54.

Vice-Mayor Jeff Roe's account reflected late payments in October, November, and December 2014, although no penalties were assessed. However, Roe was not appointed to the Board at the time the payments were late. Had the late payment penalties been assessed, we calculated the additional amount owed would have been \$77.14.

After becoming a board member Roe was not delinquent in utility payments for the period reviewed.

Town officials did not know the reason penalties had not been assessed.

Finding

The late payment penalty fees for the Copan Handi Mart, were voided prior to Deputy Clerk Deanna Schroeder's employment. The voided transactions were approved by the Board.

It was alleged that utility late fees had been removed from the Copan Handi Mart account in August 2014, the same month Deputy Clerk Deanna Schroeder began her employment with the Town. Schroeder is part owner in the Copan Handi Mart.

We reviewed the utility transaction report for the Copan Handi Mart for the period July 2014 through October 2015. The transaction history report reflected a late payment penalty fee of \$235.16 was assessed on July 1, 2014, for the June 2014 utility bill. On July 21, 2014, the CPWA Board voted in favor of waiving the penalty.

8 Discuss a possible action regarding waiver of penalty fee on Copan Hani Mart.			
Paulette made a motion to remove all penalties from the 3 accounts for Copan Handi Mart.			
Motion 2 nd by A J Patteson			
	David Long	Yes	
	Carlton Richesin	Yes	
	Paulette Ashlock	Yes	
	A J Patteson	Yes	

Based on the customer history, the penalty fee of \$235.16 was voided on July 31, 2014. The minutes did not provide an explanation for the penalty waiver.

The transaction history report also indicated a late payment penalty fee had been voided for the July 2014 bill on August 5, 2014. However, records indicated penalty fees should not have been charged to the account in July. The report shows the July 2014 payment was applied to the account on July 31, 2014, which was the due date of the billing.

Based on the transaction history report reviewed for the period July 2014 through October 2015, late fees voided in July were done so prior to Schroeder's employment. All other monthly payments were received by the due date.

Concern 4

Appointment of Deputy Clerk and Treasurer

Background

The petitioners questioned the town board's authority to appoint a deputy clerk and treasurer, believing the appointment should have been made by the town clerk and treasurer.

Finding

The authority to appoint and confirm officers and employees of the Town is vested in the board of trustees.

The powers of the town board of trustees are established in **11 O.S. § 12-106**, which provides in relevant part:

All powers of a statutory town board of trustee's town, including the determination of matters of policy, shall be vested in the board of trustees. Without limitation of the foregoing, the board may:

1. Appoint and remove, and confirm appointments of, designated town officers and employees as provided by law or ordinance...

In addition, **Section 2-701** of the Town Code states:

The Board of Trustees may appoint such officers and employees as it deems desirable to work in the water system, in the cemetery, and on the streets and to perform other appropriate duties and functions (including inspectors of the building trades), may determine their compensation by Motion or Resolution, and may demote, suspend, lay off or remove all such personnel solely for the good of the service.

Conversely, the duties of town clerks and treasurers, as defined in town code and by **11 O.S. § 12-109** and **11 O.S. § 12-110**, do not provide specific authority for the clerk or treasurer to make deputy appointments.

Based on state statutes and town code, it appears the board of trustees has the authority to appoint officers and employees.

Concern 5

Document Signing

Background

The petitioners alleged that the deputy clerk had signed a document purporting to be the town clerk.

In our review of statutes, it appears the signing of a document and the representation of that signing would include an element of intent. Because the specific document in question could not be provided, the review of the intent, purpose, and presentation of this concern was not pursued.

Concern 6	Residence of Deputy Clerk
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Background The petitioners questioned that the deputy clerk did not live within town limits.

Finding **We reviewed the Town Code and found no requirement that the deputy clerk be a resident of the Town.**

Concern 7	Email Retention Related to Window Tinting Contract
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Background According to petitioners, a town email had been deleted related to work being performed under a window tinting contract. It was further alleged the contractor hired to tint the windows at town hall was not the contractor the town board approved to perform the job.

Finding **A Town email was deleted by the deputy clerk, but was subsequently provided by a board member.**

The deputy clerk stated the ‘window tinting’ email that was the subject of the petitioner’s concern had, in fact, been inadvertently deleted. The email was provided through a board member.

From: [Deanna Schroeder](#)
Sent: Saturday, January 30, 2016 8:46 AM
To: [Dale Honas](#) ; [David Long](#) ; [Donna Stephens](#) ; [Jeff Roe](#)
Subject: Window tint

We are having the windows tinted today by Pro Tint. This bid came in under \$500 and he wanted to do this on a Saturday since it is messy. I am in the office doing my own personal work and NOT charging the town.

The Records Management Act (RMA) is defined in **67 O.S. §§ 201 et seq.** Title **67 O.S. § 207** provides in part:

The governing body of each county, city, town...shall promote the principles of efficient records management for local records. Such governing body shall, **as far as practical**, follow the program, established for the management of state records. The Administrator shall, insofar as possible, upon the request of a governing body provide advice on the establishment of a local records management program. [Emphasis added]

It is beyond the scope of the State Auditor and Inspector to make the determination of what “as far as practical” means as defined in statute. We

do recommend that all communications relative to the management of Town business be maintained.

Finding

It could not be determined which window tint contractor was approved by the board.

It was alleged the Board accepted a bid from Shadys LLC for window tinting at Town Hall. The email communication indicated Pro Tint was applying the window tint at a price below \$500.

We obtained the cost estimate from Shadys LLC which was in the amount of \$498. We requested the estimate from Pro Tint, but were informed by a town official that it was verbal. Pro Tint subsequently invoiced the Town for \$465 on February 1, 2016.

The January 20, 2016 minutes of the Town Board reflected the following discussion:

5 Discuss, Consideration and Possible action to accept price of tinting of windows in Town Hall. Mayor David Long made a motion to approve the tinting of the windows at Town Hall. 2 nd motion was made by Carlton Richesin. Donna Stephens Dale Honas, Carlton Richesin, David Long Jeff Roe		No Yes Absent
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The meeting minutes do not indicate either the contractor or an approved amount for the window tinting project. Details of contracts voted on and approved by the Board should be properly defined in the minutes.

Concern 8

Missing Ordinances

Background

The petitioners expressed a concern that town ordinances were missing or not kept on file at Town Hall.

Finding

A copy of the Town's 2006 Code of Ordinances was located at Town Hall. However, town officials acknowledge some ordinances were missing.

The deputy clerk stated the ordinance book has been at Town Hall. She further indicated that the Town's attorney had another copy because the ordinances were due to be codified.

We confirmed that the Town does maintain a 2006 Code of Ordinances at Town Hall. The ordinance book also included a 2009 and 2013 ordinance.

State statutes indicate that the **town clerk** is responsible for the custody of records and is required to maintain ordinances and resolutions passed by the board.

11 O.S. § 12-109 provides in relevant part:

The town clerk shall be an officer of the town. The town clerk shall:

2. enroll all ordinances and resolutions passed by the board of trustees in a book or set of books kept for that purpose; and
3. have custody of documents, records, and archives, as may be provided for by law or by ordinance...

The deputy clerk acknowledged that ordinances are missing. According to the deputy clerk, when she was first employed in 2014, she could not locate any documentation on ordinances passed subsequent to 2006.

Concern 9

Executive Sessions

Background

The petitioners questioned the appropriate use of executive sessions in board meetings. We reviewed Town Board and CPWA meeting minutes for the period of May 2014 through October 2015.

In meetings in which an executive session was noted, we reviewed the minutes to determine if the executive session fell within the scope of an allowable executive session in accordance with **25 O.S. § 307** which provides in relevant part:

- B. Executive sessions of public bodies will be permitted only for the purpose of:
1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;
 2. Discussing negotiations concerning employees and representatives of employee groups;
 3. Discussing the purchase or appraisal of real property;
 4. Confidential communications between a public body and its attorney concerning pending litigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body

to process the claim or conduct a pending investigation,
litigation, or proceeding in the public interest...

We also reviewed agendas and meeting minutes to determine if the procedures defined in **25 O.S. § 307** had been followed, specifically relating to the following:

- Was the executive session noted on the agenda?
- Was the executive session voted on, authorized by a quorum, and was the vote publicly cast and recorded?

Finding

An executive session held on May 19, 2014, was for an unauthorized purpose.

The agenda for the executive session held on May 19, 2014, reflected the following:

11. Executive Session
A. In compliance with Title 25, Oklahoma State Statutes 307-B.
Executive Session with Jerry Jay, Kathleen Pruett and Debbie Smith regarding implementation of software for accounting records.

As noted in the agenda and in the accompanying minutes, the purpose of the executive session was for the discussion of the implementation of software. This does not appear to be for a purpose authorized by statute. Additionally, three people who were neither board members nor legal representatives for the Town were allowed in the executive session.

The minutes reflected a vote to close the executive session and reconvene the Board of Trustees meeting. There was no discussion or vote of the issues discussed in executive session once the meeting was reconvened.

Finding

The CPWA minutes of May 19, 2014, refer to an executive session that was not on the agenda or documented in the meeting minutes.

The agenda for the May 19, 2014, CPWA meeting reflected the following:

13. Discuss and possible action regarding appointment of Temporary Utility Billing Clerk.

The minutes for the same meeting reflected the following:

13. Discussion and possible action regarding appointment of Temporary Utility Billing Clerk.
- This was covered in the Executive Session Motion by Paulette Adcock to appoint Abby Smith to serve on a temporary basis the job of City Clerk assuming Kathleen Pruett's job duties and assist with other duties at City Hall. Second by A. J. Patterson.

A. J. Patterson - aye
Carlton Richeson - aye
Quinton Mackey - aye
Paulette Adcock - aye

Based on the minutes it was unclear if the reference to the executive session was to the executive session held during the Town board meeting or if the CPWA board held an undocumented executive session.

If the CPWA meeting minutes are, in fact, referring to the executive session held during the Town Board of Trustees meeting then the purpose of the executive session for the Town Board of Trustees meeting was not properly documented.

The CPWA board minutes refer to the appointment of a "City Clerk" when the agenda item contemplated the hiring of a "temporary utility billing clerk". The hiring of a "City Clerk" would be an action expected to have been taken during the Town board meeting and not the CPWA board meeting.

Since Kathleen Pruett resigned as town clerk and CPWA secretary, it appears the newly appointed clerk was to replace the job duties of both town clerk and CPWA secretary. If that was the intended course of action, the appointment of Smith to the town clerk position should have been acted on during the meeting of the Town Board of Trustees and the appointment of Smith to the temporary utility clerk position should have been acted on by the CPWA Board of Trustees.

Finding

A lack of separation of duties appears to exist between the Town Board of Trustees and the CPWA Board of Trustees.

Under the requirements of **60 O.S. § 176.1A** the Town Board of Trustees and the CPWA Board of Trustees, although commonly the same *individuals*, should act as separate governing boards.

Title **60 O.S. § 176.1A** states in part:

- A. Except as provided...a public trust duly created in accordance with the provisions of Section 176 et seq. of this title shall be presumed for all purposes of Oklahoma law to:
 - 1. Exist for the public benefit;
 - 2. Exist as a legal entity separate and distinct from the settler and from the governmental entity that is its beneficiary;

Title **60 O.S. § 176.1D**, further states:

Except where the provisions of the trust indenture or of Section 176 et seq. of this title, or of any other law written specifically to govern the affairs of public trusts, expressly requires otherwise, **the affairs of the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities...**[Emphasis added]

State statutes require the Town and CPWA to operate as “separate and distinct entities”; however, current meeting minutes indicate an apparent lack of separation between the Town and CPWA. We cite the following examples:

- The May 6, 2014, CPWA meeting minutes reflect Kathleen Pruett submitted her resignation “for Town Clerk and Secretary for Public Works Authority”. Although the resignation was for both Town and CPWA positions, only the CPWA meeting minutes reflected the resignation.
- On June 3, 2014, the Town Board voted to acknowledge the renewal of a participation agreement in the OMAG¹ Workers Compensation Plan for the CPWA.
- In the June 27, 2014 CPWA meeting minutes, the Board voted to extend Debbie Smith’s employment as the utility billing clerk until July 31, 2014; however, there was no mention in the Town Board minutes on the same day regarding extending Smith’s employment for the town clerk position.

¹ Oklahoma Municipal Assurance Group

- In the July 21, 2014 Town Board minutes, discussion was held to accept the town clerk's resignation in a subsequent special meeting. The resignation was accepted in the July 25, 2014 special meeting of the CPWA, not the Town.

Finding The Town could not provide agendas for two CPWA meetings.

The Town was unable to provide agendas for the July 25, 2014, and the November 18, 2014, CPWA board meetings.

Concern 10

Utility Connection Fees

Background

The petitioners expressed concerns related to utility connection fees paid on a building owned by the former mayor and her spouse. The petitioners alleged the connection fees for the building should have been \$8,500 but that no fee had been assessed, or that fees had been lowered, showing preference not allowed other residents.

Finding

The CPWA utility rate schedule reflected connection fees to be charged totaled \$3,650, not the \$8,500 alleged.

On August 29, 2006, the CPWA Board passed Resolution No. 06-08-04 establishing utility connection rates. The resolution reflected the following rates:

Electric:	\$600.00 for residence includes cost list, labor of 2 men for 3 hours each, and use of truck. Extra expenses are paid by customer.
Water:	\$1,000.00 for residence includes cost list, labor of 2 men for 4 hours, use of truck and/or backhoe. Extra expenses are paid by the customer.
Gas:	\$1,200.00 for residence includes cost list, labor of 2 men for 4 hours, use of truck and/or backhoe. Extra expenses are paid by the customer.
Sewer:	\$850.00 for residence includes cost list, labor of 2 men for 4 hours, use of truck and/or backhoe. Extra expenses are paid by customer.

Based on the rate schedule, the connection fees for all four utilities total \$3,650. The rate schedule does provide that extra expenses are the responsibility of the customer; however, according to the utility superintendent, there has only been one customer, during his fifteen years

of employment, charged in excess of the rate schedule. In that one instance, the customer was charged an additional \$1,500.

Finding A connection fee of \$600 was charged for electric service. As of March 2016, no other utility services had been established.

Customer utility records reflect that only electricity had been connected as of March 2016. Records indicate the customer was assessed connection fees for electricity in April 2015. The customer made payments on an installment basis and bank records confirm the \$600 for electricity connection fees were paid in full.

Finding The Board lowered the connection rates; however, the former mayor's spouse did not benefit from the rate reduction.

The secondary concern related to connection fees was that the CPWA board lowered the utility connection rates in order to provide a retro-active discount to the former mayor's spouse.

On November 17, 2015, the CPWA Board passed Resolution No. 2015-11-01 establishing new utility connection rates. The resolution reflected the following changes to rates:

- | | |
|-----------|--|
| Electric: | \$300.00 for residence includes cost list, labor of 2 men for 3 hour each, and use of truck. Extra expenses are paid by customer. |
| Water: | \$500.00 for residence includes cost list, labor of 4 men for 4 hours, use of truck and/or backhoe. Extra expenses are paid by the customer. |
| Gas: | \$300.00 for residence includes cost list, labor of 2 men for 4 hours, use of truck and/or backhoe. Extra expenses are paid by the customer. |
| Sewer: | \$400.00 for residence includes cost list, labor of 2 men for 4 hours, use of truck, and/or backhoe. Extra expenses are paid by customer. |

Under Section VII of the CPWA Trust Indenture, the Trustees (Board) have the power to *"fix...fees for the services"*.

According to town officials, the reasoning behind the change was based on affordability and not to discourage businesses or individuals from moving to Copan because of high connection fees. It was their position that having

more customers would increase utility revenues over a long period of time as opposed to collecting a one-time fee.

The board minutes in which the resolution was passed did not document any reasoning for the change in rates.

The former mayor's spouse paid \$600 for the electrical connection and did not, therefore, benefit from the rate change that reduced the connection fee from \$600 to \$300.

Concern 11

Petty Cash

Background

The petitioners asserted that an excessive petty cash fund had been established at \$1,000.

Finding

The Board approved the use of a credit card in lieu of a petty cash fund.

The Town did not establish a petty cash fund in the amount of \$1,000. On March 1, 2016, both the Town and CPWA Boards approved using a credit card in lieu of establishing a petty cash fund. A \$1,000 credit limit was established for the Town and a \$500 credit limit was established for the CPWA.

Concern 12

Sales Tax Ordinance

Background

The petitioners alleged that a town sales tax continued to be collected after the official tax proposition had expired. The petitioners were concerned that the Town would be required to refund the unauthorized collection of the sales tax.

Finding

The Town collected sales tax for approximately eight months without an official sales tax proposition in place.

Based on available records, the Town Board passed Resolution No. 2004-5-1 calling for an election for the retention of a then current sales tax of 3%. Records reflect that on July 27, 2004, the citizens voted in favor of retaining the sales tax for street repairs and infrastructure improvements.

Resolution No. 2004-5-1 states in part:

PROPOSITION I

SHALL ORDINANCE NO. 2004-5-1 OF THE TOWN OF COPAN, AMEND ORDINANCE NO. 84-5-1 BY RETAINING THE PRESENT SALES TAX AMOUNT, THEREBY MAKING A TOTAL OF THREE PERCENT (3%) MUNICIPAL SALES TAX WHICH SHALL REMAIN IN EFFECT FOR A PERIOD OF TEN (10) YEARS, AND SHALL BE USED BY THE MUNICIPAL GOVERNMENT OF THE TOWN OF COPAN, OKLAHOMA, FOR STREET REPAIRS AND INFRASTRUCTURE IMPROVEMENTS?

Since the proposition was approved by the voters on July 27, 2004, it appears it would have expired approximately July 27, 2014. Although the proposition expired, the Town continued to collect sales tax.

On January 6, 2015, the Board passed Ordinance No. 2015-1-1 to vote on an extension of the sales tax for street repairs and improvements until April 7, 2025. On April 7, 2015, the citizens voted in favor of extending the sales tax.

Although the citizens did eventually vote in favor of extending the sales tax, it appears the Town collected sales tax for approximately eight months² after the previous proposition had expired.

Finding The Oklahoma Tax Commission will not require the Town to refund the taxes collected.

Town officials contacted the Oklahoma Tax Commission (OTC) and were informed that OTC was not responsible for ensuring ordinances were in order and they would not seek a refund for the sales taxes collected.

We also contacted a representative from OTC and confirmed that no enforcement responsibilities pertaining to the collection of sales taxes for cities or towns were in place, and that OTC would not seek a refund.

Finding Original, signed, sales tax ordinances were not on file with the Town.

The Town was unable to provide original, signed ordinances pertaining to the sales tax election. Ordinances and resolutions reviewed were unsigned copies attached to meeting minutes.³

² July 27, 2014 through April 7, 2015

³ Missing ordinances are addressed under Concern 8.

Concern 13	Playground Equipment
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Background The petitioners alleged that playground equipment had been purchased from the Copan Community Action Team (CCAT) but had not been delivered. Additional speculation was that the equipment had been purchased over a year ago and had been stored in an individual's garage.

Finding **Playground equipment was donated by CCAT, not purchased from them. Town officials confirmed the equipment was being stored until ready for installation.**

Documentation indicated that the playground equipment was donated to the Town from CCAT. On October 20, 2014, the Town Board voted in favor of purchasing materials for the installation of donated playground equipment for Copan City Park in the amount of \$6,800.

9. Discuss and possible action regarding purchase of border and other material for the installation of donated playground equipment for Copan City Park.

Larry Cain advised that the quote he has for border, mesh, and gravel is \$6800.00.

Town officials confirmed that the playground equipment was stored in an individual's garage.

Concern 14	Mayor's Newsletter
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Background The petitioners claimed that the mayor's newsletter, included with utility billings, included a political agenda.

On October 6, 2015, the Town Board passed a motion authorizing Mayor Long to write a newsletter to be included with customer utility billings. The following was included in the meeting minutes:

Donna Stephens expressed her opinion on the Newsletter. She feels that it was used as an agenda. She feels like the council did not vote to use it in that manner. She feels that the letter should remain neutral. She asked what guidelines does the council have for their newsletter. The questioned was asked what about Facebook. Donna expressed that Facebook was different. She also expressed that some of the Answers that were given at the Wesleyan church were not correct.

David Long made a motion to be able to write a newsletter and include it with the Utility Bills. Jeff Roe seconded it.

Donna Stephens No

Carlton Richesin Yes

Jeff Roe Yes

Dale Honas Yes

David Long Yes

We reviewed a copy of the newsletter and did not find the material to be representative of campaign material. The newsletter, in question, contained information in support of the upcoming election to change the clerk and treasurer's positions from elected to appointed.

It appears to be more informative in nature, discussing the Mayor and/or the Board's position and the cause and effect of the upcoming election pertaining to changing the clerk/treasurer's positions from elected to appointed.

We have included the newsletter in question as Appendix A to this report.

Concern 15

Gas Utility Refund

Background

The petitioners expressed a concern that the deputy clerk had presented a billing error to the board that resulted in an improper refund. The petitioners questioned if the customer had been issued a refund erroneously in an attempt to make the previous clerk and treasurer "look bad".

Finding

The utility billing in question was made in error, and the subsequent customer refund appeared proper.

On July 7, 2015, the CPWA Board approved to reimburse the customer in question \$1,779 in gas overcharges. The minutes reflect:

Deanna showed the council a set of gas meter readings that have a decimal in the wrong placed. She went back 3 years which causes the CPWA to owe 1779.00.
Deanna told the board that a large number of meters are being estimated and if read written down wrong. When asked she informed the council that both Tracy and ~~she~~ ^{was} were doing it. *Deanna only mentioned Tracy.*
David said he would talk to Tracy.
Motion by Jeff Roe to reimburse [REDACTED] \$1,779.00 for over hare on gas.
Motion 2nd by David Long

Jeff Roe	Yes
Dale Honas	Yes
Carlton Richesin	Yes
Donna Stephens	Yes
David Long	Yes

The improper billing appeared to be based on the error of where a decimal point had been placed when the meter was read.

The Town utilizes four and five digit meters in their calculation of gas consumption. The error in question was the result of a wrongfully placed decimal point on one of the four 5-digit meters in use.

Once the error was discovered, the deputy clerk prepared a worksheet reflecting the decimal point corrections dating back to 2012. According to the clerk's calculations, the incorrect decimal placement resulted in a customer overcharge of \$1,779.

Based on our review of the 5-digit gas meters, we concurred the customer's account had been incorrectly billed.

Concern 16

Time Reporting

Background

The petitioners questioned why Deanna Schroeder, deputy clerk, had submitted a timesheet with incorrect dates, and why she was being paid overtime.

Finding

The Town has no policies or procedures in place to govern employee work hours, overtime hours, or pay.

The Town had no documented review process for verifying the hours being recorded as worked. The time records reviewed reflected no signatures attesting to the hours worked either by the employee or by a person in a supervisory position.

The Town also has no policy or procedures defining time reporting requirements or allowed overtime.

Finding

The timesheet showing incorrect dates appeared to be an inadvertent mistake.

The petitioners provided a copy, of Deanna Schroeder's time record that included two Tuesday's reportedly worked in the same week. The two days in question had been recorded as Tuesday, December 22, and Tuesday, December 23.

16	Wed	7.75	12.00	12.75	17.00	8.50	
17	Thur	7.75	12.00	12.25	17.50	9.50	
18	Fri	7.75	12.00	12.25	17.50	9.50	
19	Sat					0.00	
20	Sun					0.00	
21	Mon	8.00	12.00	12.25	17.50	9.25	
22	Tue	7.75	12.00	12.25	17.50	9.50	
23	Tue	7.75	12.00	13.00	17.00	8.25	
24	Wed					8.00	Christ- mass Holiday
25	Thur					8.00	
26	Fri					8.00	

We agree the time sheet reflected two Tuesdays in one week, and that the dates and the *days of the week* do not correspond to the December 2014 calendar.

According to Schroeder, she utilized a timesheet template on her computer. Each month the same template was used to prepare a new timesheet by changing the previous month's entries to reflect the current month's entries. For the month of December, Schroeder stated she inadvertently forgot to adjust the *days of the week* to correspond to the actual dates.

Schroeder subsequently realized the error in the timesheet and prepared a corrected timesheet reflecting the corrected dates and *days of the week*. Both the original and the corrected time sheets reflected the same total number of hours worked for the period.

Because the timesheets are neither signed nor dated, we cannot determine when the corrected timesheet was prepared.

We noted, when reviewing the original timesheet, that although two Tuesdays had been recorded, the week (Sunday-Saturday) still contained seven days.

Although the *two Tuesday* issue appears to have been the result of re-using the same timesheet from month-to-month, Schroeder did provide that in some cases her time record will reflect two Tuesdays in the same week. According to Schroeder, when *two Tuesdays are recorded in one week*, regular (office) hours are recorded on one line and hours spent attending the Town and CPWA board meetings on Tuesday evening are recorded on a separate line.

Finding

A former clerk was paid for two months with no timesheet to support the amount paid.

While reviewing contract labor payments pertaining to another concern, we noted former employee Debbie Smith was paid \$6,862.50 during June 2014 and July 2014, without supporting timesheets.

The claims paid noted the following descriptions:

- June 13, 2014 – “91 hrs for acting utility clerk”
- June 30, 2014 – “6/16-6/30 115 hrs temp worker”
- July 15, 2014 – “99 hours temp worker”
- July 31, 2014 – “7/15-7/31 labor 88 hrs, 43 hrs” (overtime)

On May 19, 2014, the CPWA Board voted to appoint Debbie Smith as clerk on a temporary basis. Subsequently, on June 27, 2014, the CPWA Board voted to extend Debbie Smith’s temporary employment until July 31, 2014.

The vague descriptions included on the claims for payment were the only documentation the Town could provide to support 393 regular hours plus an additional 43 hours of overtime totaling \$6,862.50, paid during the two-month period.

Two of the four claims reflected a date range for the hours worked while the other two claims had no indication of the dates worked and reflected only the total hours being paid, as shown below.

DATE 20	ITEM			AMOUNT CLAIMED
99 Hours		15	00	1 485 00
	Temp. Worker			

Although there were no payroll withholdings associated with the payments, it appears the relationship Smith had with the CPWA was that of an employee rather than contract labor. We cite the following reasons:

- The agenda for the June 27, 2014 CPWA meeting reads, “*Discuss and possible action regarding extension of temporary employment of Debbie Smith as Utility Billing Clerk.*” [Emphasis added]
- Under IRS guidelines, an individual is considered an employee if the employer controls “what will be done and how it will be

done”. In this circumstance the duties of a clerk would be under the control of the Board.

- The July 31, 2014, claim included 43 hours of overtime at time and one-half. Generally, overtime is paid to employees and not as contract labor.

It appears Smith was an employee during this time period, and as with Schroeder, employee timesheets should be signed and approved to support payments to hourly employees.

Concern 17

Contract Labor

Background

Petitioners expressed a concern that an individual was paid for almost one year of contract labor, to set up computers and install utility software, but had never been officially hired by the Board.

Finding

There was no board approval for the hiring or appointment of Debbie Smith.

We requested town officials provide documentation of board approval for the hiring or appointment of Debbie Smith. Town officials indicated that Smith was hired as contract labor to set up computers and install software, but acknowledged that there was no board approval for the appointment.

Finding

Debbie Smith was paid \$10,642.50 from the CPWA for the period October 2013 through May 2014, with no written contract.

Documentation reflected that the CPWA paid Debbie Smith a rate of \$15 per hour for 709.5 hours totaling \$10,642.50, without a written contract.

Payment should not have been made without a written contract on file signed by both parties detailing the terms, conditions and compensation agreed upon.

Finding

No invoices were provided to support \$9,892.50 of the payments made to Debbie Smith.

The Town provided handwritten invoices to support payments of \$135 and \$615 both dated October 8, 2013. One of the handwritten invoices, for 18 hours, reflected a brief description with the hours; however, there were no dates.

The other handwritten invoice reflected dates and hours with a generic and vague description of the work performed.

Work on New Computer & Software		Work on data entry # 321994 & trouble shooting software	
trips to Staples	4	8/9	5
talk with S. Sotom	2	8/12	2
Install Computer	6	8/16	3
Install internet	3	9/4	7
Backup Computer	15 3	9/6	5
(for Southern Software)	18	9/13	4
		9/16	6
		9/23	10
			32
OK Smith		OK	

The supporting documentation for twelve other payments to Smith, totaling \$9,892.50, consisted of brief and vague descriptions such as "labor", with no indication of the work being performed, with no dates or descriptions on the claim form, and with no accompanying invoices.

DATE 20	ITEM	AMOUNT CLAIMED
12-16-12	30 Hours	15.00 450.00

DATE 20	ITEM	AMOUNT CLAIMED
5/24/14	Labor	15.00 722.50
4/15/14	Computer work	

Finding

Five of the fourteen claims paid to Debbie Smith, totaling \$2,722.50, were not signed by an approving officer or governing board member.

The checks issued for payment to Debbie Smith for all of the contract labor payments were signed by the town treasurer and town clerk. However, we noted five of the claims, totaling \$2,722.50, were not signed by an approving officer or a board member.

Since there was no approving officer's signature on the claims and the checks were signed by only the treasurer and clerk, there was no documentation of any board involvement in the authorization of these payments. As noted in the following finding, neither the Town nor the

CPWA maintained sufficient documentation to determine if payments to Smith were actually presented and approved by the respective governing boards.

The lack of documentation and questionable practice apparently led to some confusion with at least one board member. Town and CPWA Board Member David Long said he believed Smith was volunteering her time and was not being paid. Long further stated he had no recollection of payments to Smith being submitted to the board(s) for approval.

Because of the lack of records maintained by the Town and CPWA, we were unable to determine if the appropriate governing boards actually approved the payments to Smith.

Finding

The Town/CPWA does not maintain records documenting the invoices or payments submitted to the board for approval.

The minutes for both the Town and CPWA reflect approval for the “Payment of Bills” under a consent agenda. Neither the Town nor the CPWA maintained the consent agendas, or any other documentation reflecting what payments are actually being approved by each board for payment.

Concern 18

Ordinance Publication

Background

The petitioners expressed a concern that an ordinance authorizing the addition of a \$2 fire protection fee to utility bills was not published.

Finding

The concern was unsubstantiated; the ordinance was published in a timely manner.

Ordinance publication requirements are set forth in **11 O.S. § 14-106** which provides:

No ordinance having any subject other than the appropriation of monies shall be in force unless published or posted within fifteen (15) days after passage. Every municipal ordinance shall be published at least once in full, except as provided for in Section 14-107 of this title. When publishing the ordinance, the publisher or managing officer of the newspaper shall prefix to the ordinance a line in brackets stating the date of publication as “Published_____”, giving the month, day, and year of publication.

Ordinance 2015-11-02 established a mandatory fire rate charge of \$2 for Copan utility customers which was passed and approved on November 17, 2015. We obtained the Affidavit of Publication for this ordinance, which indicated the ordinance was published in the Bartlesville Examiner-Enterprise on November 20, 2015.

Concern 19

Budget Approval

Background

The petitioners questioned board approval of the FY2016 budget.

Finding

Town and CPWA meeting minutes did not reflect approval for the 2015-16 budget.

We reviewed Town meeting minutes for approval of the FY2016 budget. We noted the following discussions:

- On August 17, 2015, the board voted to hire Bruce Miller, CPA to prepare the FY 2016 budget.
- On September 15, 2015, the CPA proposed a projected budget and informed the board that the budget needed to be “filled out by October 1, 2015”. No action was taken.

We noted no other discussions related to the budget; therefore, we found no indication, based on the meeting minutes, that the FY2016 budget was approved by the Board.

Attachment A

Mayor's Newsletter Copan

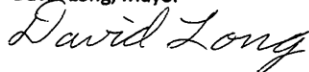
Month of October

As Mayor, I want to take this opportunity to thank you all for your support during my tenure as Mayor. A very special thanks to Oklahoma Forestry for donating a 2009 Freightliner w/ 8000 miles and a new 3000 gallon tank with a large diesel pump to the city of Copan. In addition, Copan recently purchased a 2016 Ford fire rescue truck which is in the process of being equipped with all the latest rescue equipment. Alterations are also taking place to the City's 2002 Chevy truck to make it capable of fighting grass fires. Jerry Monday is working with Washington County in Google mapping all the City fire hydrants. All the equipment listed above and the ease in locating of fire hydrants in an emergency should maintain or even drop the city's fire rating.

Special Election News: I reached out to Copan City Commissioners for their comments on what needs to be addressed to the public. We want to clear up a few misconceptions we are not changing the form of Government in one respect what so ever, it is still town elected board of 5 Trustees. We only ask that we can appoint City Clerk and Treasurer to allow them to be responsive to the 5 council members. Basically, we want to hire the most qualified candidate for the positions that are highly skilled in providing financial accountability to the City of Copan and its Commissioners in making effective decisions. The current elected positions doesn't require any background checks, any skill level, references, and credit checks to provide personal financial stability. If you are hired to work for Schools, Banks, Government affiliates, and other financial institutions they require FBI background checks, possibly credit reports, and reference checking. **I want to make clear we are not taking the right to vote away from anyone. You are voting to allow us to hire the most qualified person to handle the town finances and records.** We want to avoid an elected candidate that serves a term who quite possibly refuses to do what the council asks of them. We as a council need your vote to have the ability to hire and fire based on performance. Please go vote on October 13, 2015.....If you are undecided contact our neighboring town's I have and you would be surprised that the public have already passed their Propositions like South Coffeyville back in 2008, and Caney Kansas just this past year, and/or contact any other municipality in Washington county.

Sincerely,

David Long, Mayor



DISCLAIMER

In this report there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by this Office. 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.



OFFICE OF THE STATE AUDITOR & INSPECTOR
2300 N. LINCOLN BOULEVARD, ROOM 100
OKLAHOMA CITY, OK 73105-4896

WWW.SAI.OK.GOV