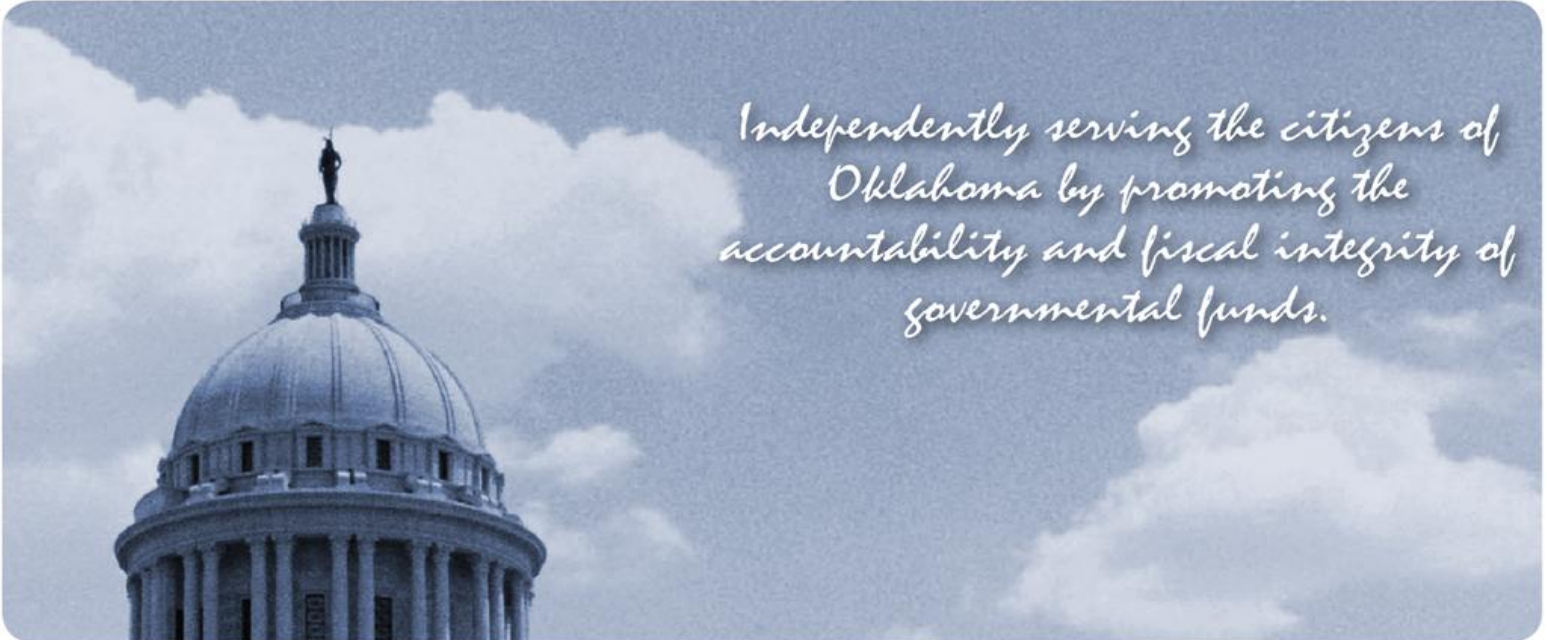


CITIZENS PETITION REQUEST

# TOWN OF FORT SUPPLY

July 1, 2012 through January 31, 2015



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

**TOWN OF FORT SUPPLY**  
**FORT SUPPLY PUBLIC WORKS AUTHORITY**  
**WOODWARD COUNTY, OKLAHOMA**  
**CITIZENS PETITION REQUEST**  
**JULY 1, 2012 THROUGH JANUARY 31, 2015**

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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 the agency's website ([www.sai.ok.gov](http://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**.



**Report  
Highlights**

### **WHY WE CONDUCTED THIS AUDIT**

We performed the audit in response to a citizens petition submitted under the requirements of **74 O.S. § 212(L)**. The petition objectives included:

- I. Possible improper payroll without board approval.
- II. Possible irregularities in payroll without board approval.
- III. Review possible discrepancies in utility records, including meter deposit funds, and comingling of Town and public works authority funds.
- IV. Possible misreporting of information to the Oklahoma Uniform Building Code Commission and inaccurate payments to the Oklahoma Public Employees Retirement System.

### **WHAT WE FOUND**

- Employee raises were approved by the Board. (Pg. 3)
- The town clerk-treasurer was not granted a raise between the time elected and the time of taking office. (Pg. 4)
- Independence issues may exist in the auditor's performance of the required agreed-upon-procedures engagement. (Pg. 7)
- The Town did not report and remit 'Land Use Permit Request' fees to the Oklahoma Uniform Building Code Commission. (Pg. 10)
- Meter deposit refunds were paid from the Public Works Authority bank account not from the General Fund. (Pg. 11)
- The Public Works Authority account was not reimbursed for \$1,584 of Meter Deposit refund and credit transactions. (Pg. 12)
- The concern regarding the lack of segregation between Town and Public Works Authority funds was unsubstantiated. (Pg. 12)
- All hours worked and wages earned by the former town clerk-treasurer had not been properly reported to the Oklahoma Public Employees Retirement System. (Pg. 13)
- We found no evidence of a violation of the Open Records Act. (Pg. 15)



# Oklahoma State Auditor & Inspector

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

May 11, 2016

To the Petitioners and Citizens of the  
Town of Fort Supply:

Transmitted herewith is the Petition Audit Report for the Town of Fort Supply.

Pursuant to your request and in accordance with the requirements of **74 O.S. § 212(L)**, we performed a petition audit of the Town of Fort Supply for the period July 1, 2012 through January 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 of a petition audit 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 Fort Supply for the period July 1, 2012 through January 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 services 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 report is addressed to and is for the information and use of the petitioners and citizens of the Town of Fort Supply. This report is also 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, appearing to read "Gary A. Jones".

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

**TABLE OF CONTENTS**

Introduction.....1

Background and Citizen Petition Objectives .....2

Concerns .....3

    1. Employee Raises .....3

    2. Elected Official Compensation .....4

    3. Auditor Independence .....6

    4. Building Permits .....9

    5. Meter Deposits and Refunds.....11

    6. Retirement Contributions.....13

    7. Open Records Request.....15

## **Introduction**

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The Town of Fort Supply (“Town”) is organized under the statutory town board of trustee’s form of government, as outlined in **11 O.S. §§ 12-101, et seq.** which states in part:

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 trustee’s 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 Town is governed by a Board of Trustees which consists of five members. The Board elects from its membership one member to serve as the Mayor.

The Board of Trustees as of our report date consisted of:

- Mike Lowden, Mayor
- Phillip Burkhalter, Member
- Donna McCaslin, Member
- Donald Pettey, Member
- Clay Hickman, Member

The Fort Supply Public Works Authority (“Authority”) is a public trust established under **60 O.S. §§ 176 et seq.** The Authority provides utility service, water, sewer, and garbage, to the residents of the Town. The Town Board of Trustees also serves as the Board for the Authority.

In accordance with a “Citizens Petition Request for Special Audit” verified by the Woodward County Election Board Secretary in a letter dated March 26, 2015, the Office of the State Auditor and Inspector has conducted a petition audit of the Town of Fort Supply, primarily relating to the objectives and concerns listed in the accompanying *Table of Contents*.

## **Background and Citizen Petition Objectives**

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In a petition verified by the Woodward County Election Board on March 26, 2015, the citizens of the Town of Fort Supply requested the assistance of the Oklahoma State Auditor and Inspector in conducting an audit of the following alleged inappropriate financial activity.

- I. Possible improper payroll without board approval.
- II. Possible irregularities in payroll without board approval.
- III. Review possible discrepancies in utility records, including meter deposit funds, and comingling of Town and public works authority funds.
- IV. Possible misreporting of information to the Oklahoma Uniform Building Code Commission and inaccurate payments to the Oklahoma Public Employees Retirement System.

The above petition objectives, along with other areas of concern, were reviewed with petitioners and it was determined that the following specific seven concerns would be investigated.

- |           |  |
|-----------|--|
| Concern 1 | Raises given to the Town staff were allegedly not approved by the Board of Trustees.   |
| Concern 2 | The new Town Treasurer was allegedly given a raise after she was elected but before taking office.   |
| Concern 3 | The external auditor allegedly audits the Town's financials, but also maintains and prepares the financial records for the Town.   |
| Concern 4 | The Town allegedly does not report building permits to the Oklahoma Uniform Building Code Commission, failing to pay required fees to the state.   |
| Concern 5 | Meter deposit refunds are paid out of the General Fund instead of the meter deposit account and the Town allegedly fails to segregate payments and deposits related to the Public Works Authority. |
| Concern 6 | The Town allegedly failed to report all required contributions to the Oklahoma Public Employees Retirement System.   |
| Concern 7 | The Town has allegedly violated the Open Records Act.  |

**CONCERN 1**

**EMPLOYEE RAISES**

**Background**

The petitioners alleged that raises had been given to staff members in June 2014, that were not properly approved by the Board.

**Title 11 O.S. § 12-106(3)** gives the power to regulate salaries to the board of trustees, specifically stating:

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;
2. Enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Raise revenue, establish rates for services and taxes, make appropriations, regulate salaries and wages and all other fiscal affairs of the town, subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law...

**Finding**

**Raises were presented in a Board meeting through the annual budget and in the detail of a 'Budget Memo'. Both were presented, discussed, accepted, and approved by the Board.**

According to the Payroll Summary for FY14, two employees were earning at a rate of \$11.00 per hour and one employee was earning \$18.00 per hour. The Payroll Summary for FY15 reflected the salaries had been increased to \$11.33 per hour and \$18.54 per hour, raises of 3%.

At the May 6, 2014 Board of Trustees meeting, Meredith Meacham-Wilson, CPA, and Mayor Lowden presented the proposed FY15 budget to the Board. Meacham-Wilson also presented the Budget Memo which itemized the 3% raise to be given to employees.

At the June 3, 2014 board meeting, Mayor Lowden recapped the awarding of 3% raises, and discussed that approval of the budget would include approval of the raises.



At the same meeting, the Board approved Resolution 112 adopting the Town of Fort Supply FY2014-2015 Budget.

<b>CONCERN 2</b>	<b>ELECTED OFFICIAL COMPENSATION</b>
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**Background**

Petitioners alleged the Board of Trustees voted to give the newly elected Town treasurer a raise. The raise allegedly came after the election but before the new treasurer took office, which would place the compensation in violation of law.

The **Oklahoma Constitution Article 23 Section 10** states in part:

“...in no case shall the salary or emoluments of any public official be changed after his election or appointment, or during his term of office, unless by operation of law enacted prior to such election or appointment...”

**Title 11 O.S. § 12-110(3)** states:

“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.”

In January 2009, Ordinance 340 abolished the town clerk and the town treasurer positions and created the office of town clerk-treasurer. The new town clerk-treasurer would be elected for a term of four years beginning with the general election held in April 2011.

On July 1, 2014, Ordinance 356 was passed amending the duties, compensation, and work hours for the clerk-treasurer position. The pay for the position was set at \$5,434 per year for two hours of work per day.

**Finding**

**The town clerk-treasurer was not granted a raise between the time elected and the time of taking office.**

**Clerk-Treasurer Duties**

On April 7, 2015, Tammy Whitley was elected as the new Fort Supply Clerk-Treasurer. The compensation for her position, \$5,434 per year, was set by Ordinance 356 passed July 1, 2014.

According to Town records, Whitley was paid \$452.83 per month for her duties as elected clerk-treasurer, the amount approved prior to her election through Ordinance 356.

On April 15, 2015, Ordinance 357 was passed, again setting forth the pay for the clerk-treasurer position at \$452.83 per month, or \$5,434 per year.

Ordinance 357 reflected:

Section 1. The pay period for the Town of Fort Supply shall be Monthly. The Clerk/Treasurer shall be paid each pay period the amount of \$452.83, contingent upon the Clerk/Treasurer's performance of the Clerk/Treasurer's legal duties of the office. Any increase or decrease in Clerk/Treasurer's salary for legal duties shall not go into effect until the next term of office.

**Additional Duties**

Ordinance 357 approved on April 15, 2015, also defined additional duties that could be performed by the clerk-treasurer when employed by the Town in a separate position. The pay for performing the additional duties would be equal to the pay of the Town office manager.

Section 2. The person who serves as Town Clerk/Treasurer may also perform additional administrative duties not specified by State Law as an employee of the Town of Fort Supply. Said additional duties shall be performed by the person serving as the Town Clerk/Treasurer or as otherwise provided by motion or other action of the Board. The person performing additional administrative duties shall performing such duties may be prescribed by the Board or the Mayor.

Section 3. The pay period for performing the additional administrative duties shall be the same as for other municipal employees and shall be paid each pay period the amount to equal the amount of pay of the office manager including cost of living raises yearly as they are issued. And only when they are issued by the board, in accordance with any personnel policy or other policy of the Town of Fort Supply. The salary for performing the additional administrative duties shall not be subject to constitutional restrictions.

At the April 15, 2015 board meeting, the board approved the appointment of newly elected clerk-treasurer Whitley to extra duties as allowed under Ordinance 357.

The Payroll Summary for FY15 indicated the Town office manager was paid \$11.33 per hour. Tammy Whittlely also received \$11.33 per hour for her additional job duties as defined in Ordinance 357.

**Title 11 O.S. § 12-110(3)** referenced above clearly states that additional duties may be performed by an elected treasurer but such duties cannot relate to the elected position as town treasurer.

We did not find any written documentation describing the duties or hours to be worked for the additional job performed by the clerk-treasurer. We recommend town officials develop a written job description for these extra duties to ensure that any additional duties performed and compensated do not relate to the duties of the elected position of clerk-treasurer.

### CONCERN 3

### AUDITOR INDEPENDENCE

#### Background

Petitioners alleged that the CPA firm of RS Meacham CPAs & Advisors (hereinafter “Meacham”) was not independent in the performance of their duties. According to the petitioners, Meacham performed an external audit of the Town’s financials, but also maintained and prepared the financial records of the Town.

#### Finding

**Meacham did not conduct an external financial audit of the Town while engaged to perform non-attest accounting services.**

The Board approved the hiring of Meacham on March 15, 2012.<sup>1</sup> This engagement included an agreement to provide some of the following non-attest accounting services:

- Check and invoice review
- Review and record journals
- Post general ledger
- Reconcile bank statement
- Assist in maintenance payroll records
- Financial statement preparation

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<sup>1</sup> An engagement letter was provided for these accounting services dated March 15, 2012, although not signed by a Town official until February 3, 2016.

The providing of these services began March 15, 2012, continuing through the current time period. However, Meacham did not conduct any external financial audits of the Town while engaged in these services.

**Agreed-Upon Procedures Engagements**

**Finding**

**Independence issues may exist in the auditor’s performance of the required agreed-upon-procedures engagement.**

Although Meacham did not conduct an external financial audit of the Town, the firm did perform Agreed-Upon Procedures (AUP) engagements for FY13 and FY15.

Under **11 O.S. § 17-105(B)** an annual financial statement audit *or* an agreed-upon-procedures engagement is required annually. **Section 17-105(B)** states in part:

B. The governing body...shall cause to be prepared...by an *independent* licensed public accountant or a certified public accountant, an annual financial statement audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States, *or an agreed-upon-procedures engagement* over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants, and the fieldwork and reporting standards in Government Auditing Standards. [Emphasis added]

**2013 AUP Engagement**

On September 3, 2013, the Board discussed having the annual “AUP End of Year Audit” performed by “an outside auditor other than the one who maintains our books”. After discussion of the issues, the Board voted to “have a third party conduct the end of year required audit”.

The following month on October 1, 2013, the Board changed their decision and approved the AUP prepared by Meacham.

**TOWN OF FORT SUPPLY  
FORT SUPPLY PUBLIC WORKS AUTHORITY  
CITIZENS PETITION REQUEST  
DATE OF RELEASE: MAY 11, 2016**

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**Agenda Item # 6**

Mayor Lowden stated to the board that the board talked last meeting about someone else doing the AUP, Mayor Lowden requested Meredith Meacham Wilson to enlighten the board on the options or differences between the AUP and an audit, so the board understands what we have hired you for, and what part of our other options are. Meredith explained to the board the difference between an Agreed upon Procedures and an Audit. After discussion, Mayor Lowden made a motion to approve the Agreed upon Procedures prepared by Meredith Meacham Wilson. Motion seconded by D. McCaslin.

**Vote as Follows:**    Yea: Lowden, Pettey, Burkhalter, McCaslin, Wilson  
                              Nay: None

As noted in these minutes, a motion was made to approve the AUP “prepared by” Meacham. However, the AUP Report had already been prepared and was dated August 27, 2013, over a month prior to the approval of the engagement by the Board. A management representation letter dated August 27, 2013, was signed by the Mayor on October 1, 2013, the date the Board approved the engagement.

Meacham provided to us an engagement letter for the 2013 AUP dated August 20, 2013; however, the letter was not signed a Town official.

**2015 AUP Engagement**

On October 6, 2015, the Board approved the 2015 “AUP conducted by” Meacham.

**Agenda Item # 5: Discuss/Approve AUP conducted by Meredith Meacham Wilson with RS Meacham and Associates.**

After discussion D. McCaslin made a motion to approve the AUP conducted by Meredith Meacham Wilson with RS Meacham and Associates. D. Pettey seconded the motion.

**Vote as follows:**    Yea: P. Burkhalter, D. McCaslin, C. Hickman, D. Pettey, M. Lowden  
                              Nay:

The 2015 AUP Report was dated August 31, 2015, before the engagement was approved by the Board. A management representation letter was also dated and signed by the Mayor on August 31, 2015.

Meacham provided to us an engagement letter for the 2015 AUP dated August 28, 2015; however, the letter was not signed by a Town official.

The AICPA Professional Code of Conduct and Generally Accepted Government Auditing Standards indicate that an auditor would not be independent if the auditor performs an AUP engagement and certain non-attest services covering the same subject matter<sup>2</sup> and time period.

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<sup>2</sup> 11 O.S. § 17-105(B) defines the specific subject matter to be included in the Town’s AUP.

**CONCERN 4      BUILDING PERMITS**

**Background**

Petitioners alleged the Town issued building permits for a fee, but did not remit the required fees collected to the state.

Building code and permits are regulated under **59 O.S. § 1000.20-1000.29** which defines the “Oklahoma Uniform Building Code Commission Act”. **Section 1000.23** of the Act states in part:

A. The Oklahoma Uniform Building Code Commission shall have the power and the duty to review and adopt all building codes for residential and commercial construction to be used by all entities within this state. Codes and standards adopted by the Commission shall be the minimum standards for residential and commercial construction in this state.

C. Municipalities and other political subdivisions shall abide by such minimum standards and requirements; provided, nothing in the Oklahoma Uniform Building Code Commission Act shall prevent or take away from such municipalities and other political subdivisions the authority to enact and enforce requirements containing higher standards and requirements than such minimum standards and requirements.

**Section 1000.25** of the Act established a system of fees to be charged for construction permits, requiring that fees shall be collected by any municipality issuing construction permits within the state.

The ‘Oklahoma Uniform Building Code Commission Rules’ defined through the Oklahoma Administrative Code (OAC) 748:1-1-1 through 748:15-1-5 further identify the requirements of the Oklahoma Uniform Building Code Commission (OUBCC).

Under 748:3-1-2 of the OAC, “Building Permit” is defined as:

“Building Permit” means any written authorization or approval, issued by an authority having jurisdiction, which allows the holder or other persons to commence the construction, alteration or renovation of all or part of a residential or commercial building or structure subject to the requirements of the State Adopted Building Codes. For purposes of this Title, the term building permit includes any process wherein authorization, approval or registration is required prior to construction even

**TOWN OF FORT SUPPLY  
FORT SUPPLY PUBLIC WORKS AUTHORITY  
CITIZENS PETITION REQUEST  
DATE OF RELEASE: MAY 11, 2016**

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though: 1) a permitting or registration document is not issued at that time; 2) the authority having jurisdiction refers to the authorization, approval or registration as something other than a "permit"; or 3) the only activities performed by the authority having jurisdiction are fee-based inspections of the work performed.

Per the OUBCC Permit Fee Report, the amount due the state is \$4 for each permit issued. The permit fees are to be remitted on a monthly basis.

**Finding**

**The Town has not been reporting and remitting ‘Land Use Permit’ fees to the Oklahoma Uniform Building Code Commission.**

Ordinance 341 dated June 7, 2011, set the fee for a Town of Fort Supply ‘Building Permit’ at \$25. Subsequently, Ordinance 344 dated September 21, 2012, changed the Town’s “Building Permit” to a ‘Land Use Permit’ with the fee remaining at \$25.

June 2011

<u>Permits</u>	
Building permit; based on cost of materials	
First \$2,000.00	\$25.00
Each \$1,000.00 or part thereafter	\$2.00

September 2012

<u>Permits</u>	
Land use permit; based on cost of materials	
First \$2,000.00	\$25.00
Each \$1,000.00 or part thereafter-3 month permit	\$ 2.00

A review of the board minutes between June 2011 and September 2012 did not reveal any discussion or action taken by the Board to approve the change of the ‘Building Permit’ to a ‘Land Use Permit’.

A copy of Fort Supply’s ‘Land Use Permit Request’ was provided to the OUBCC to determine if they would consider it a “Building Permit” that should be reported to the OUBCC.

According to an official at the OUBCC, “Based on the face of the “Land-Use Application” we believe the application is for a construction permit even though they are not calling it that.”

It appears the “Land Use Permit Request” would be a ‘Building Permit’ as defined in the Oklahoma Administrative Code and as such, the \$4 fee should be submitted to the OUBCC monthly along with an OUBCC Permit Fee Report.

Based on data obtained from the OUBCC, Fort Supply had not paid any building permit fees to the state since at least May 2012, and had not submitted monthly reports for June 2012 – February 2013, May 2014, and February 2015.

For the FY 2015 we noted seven “Land Use Permit Request” had been issued with fees totaling \$175.

We recommend the Board of Trustees evaluate the “Land Use Permit Request” being utilized by the Town for content and purpose, along with the permit process of the Town, and consult with the OUBCC on what permits and fees should be reported.

**CONCERN 5**

**METER DEPOSITS AND REFUNDS**

**Background**

It was alleged by petitioners that meter deposit refunds had been paid out of the General Fund instead of the Meter Deposit account, and that Fort Supply Public Works Authority (PWA) funds were not properly segregated from Town funds.

**Finding**

**Meter deposit refunds were paid from the PWA bank account not from the General Fund.**

New utility customers are required to make a deposit for service in the amounts defined in the Town’s ‘Schedule of Deposits for Customer Service’. The Town deposits the funds collected into the Meter Deposit bank account. When services are canceled, refunds are issued, or funds are applied to outstanding balances through the PWA bank account. Funds are then to be transferred from the Meter Deposit bank account to the PWA bank account to cover these transactions.



**TOWN OF FORT SUPPLY  
 FORT SUPPLY PUBLIC WORKS AUTHORITY  
 CITIZENS PETITION REQUEST  
 DATE OF RELEASE: MAY 11, 2016**

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<b>Schedule of Deposits for Customer Service</b>	
Home Owner (with proof of ownership) Electric and water	\$200.00
Rental (Electric & Water-requires rental receipt)	\$400.00
Rental (Electric only-requires rental receipt)	\$400.00
Water service only (owner with proof of ownership)	\$75.00
Water services only (Rental)	\$125.00

Approximately \$5,314.19 in meter deposit refunds were issued during the audit period. In addition to meter deposit refunds, \$4,023.31 in meter deposit funds was applied to the customer’s last bill. A total of \$9,337.50 in PWA funds were used for these refunds and applied credits.

We verified three transfers totaling \$7,753.50 were made from the Meter Deposit bank account to the PWA bank account to cover funds used for customer refunds or account credits. Leaving \$1,584 not transferred.

Date	Amount
11/1/13	\$137.50
12/02/13	\$170.00
8/17/15	\$7,446.00
<b>Total</b>	<b>\$7,753.50</b>

**Finding**

**The Public Works Authority account was not reimbursed for \$1,584 of Meter Deposit refund and credit transactions.**

Transfers to the PWA bank account did not occur during each fiscal year and total funds transferred from the Meter Deposit account did not reconcile with total refunds made or credits issued.

During the audit period, \$9,337.50 of Meter Deposit refunds and credits were made from the PWA bank account with only \$7,753.50 reimbursed.

We recommend the Town complete transfers from the Meter Deposit account to the PWA account in amounts equal to the refunds or credits expended; or consider making deposit refunds and applied credits directly from the Meter Deposit bank account.

**Public Works Authority**

**Finding**

**The concern regarding the lack of segregation between Town and Public Works Authority funds was unsubstantiated.**

The Fort Supply Public Works Authority was established under **60 O.S. § 176** with the Town as the primary beneficiary of the Trust. As outlined in **60 O.S. § 176**, an Authority's powers, rights and privileges, as well as the acceptable use of funds include, "the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality."

We found no evidence that the funds collected by the Authority (the Trust) must be transferred from the Authority to the beneficiary (the Town) prior to funds being expended for a public function or purpose.

Despite the petitioners' concerns, it appears PWA funds can be used for general operations of the Town directly from the accounts of the PWA or as transferred funds between the Town and the Authority.

<b>CONCERN 6</b>	<b>RETIREMENT CONTRIBUTIONS</b>
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**Background**

It was alleged that the Town had failed to report some of the wages of the former town-clerk treasurer to the Oklahoma Public Employees Retirement System (OPERS) as required by statute.

**Title 74 O.S. § 914(E)** requires a retiree of OPERS to participate upon any and all compensation received for work or employment with a participating employer including any person "elected or appointed to any position or office for which compensation for service is paid from levies or taxes imposed by the state or any political subdivision thereof..."

**Title 74 O.S. § 914(E)** further states, "Any retiree returning to work for a participating employer shall make contributions to the System and the employer shall do likewise."

**Finding**

**All hours worked and wages earned by the former town clerk-treasurer had not been properly reported to OPERS.**

Donna Burkhalter was elected as the town clerk-treasurer in April 2013. Burkhalter had previously retired from an OPERS agency before becoming the town clerk-treasurer. According to the statute noted above, it appears wages earned from the Town of Fort Supply would be required to be reported to OPERS.

**TOWN OF FORT SUPPLY  
FORT SUPPLY PUBLIC WORKS AUTHORITY  
CITIZENS PETITION REQUEST  
DATE OF RELEASE: MAY 11, 2016**

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In October 2013, Burkhalter began communication with OPERS concerning possible unreported earnings. As part of these communications, an OPERS official agreed that the Town should pay the cost of participation of the clerk-treasurer, emailing the following:

Please report your hours worked and gross salary received for each pay period since April 15, 2013 on the "Application for Purchase of Delinquent Service" and submit the application to OPERS.

Title 74, Section 917 (7) requires that the employer (Town of Fort Supply) to pay the cost of the participation of a person who was eligible to participate in OPERS but did not do so.

Actual language below:

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.

Communication between OPERS, the Town and Ms. Burkhalter continued until October 2014 when the Board approved the Town's participation in OPERS for elected retirees on the advice of their attorney.

An OPERS form *Application for Purchase of Delinquent Service* dated October 9, 2014, was submitted on behalf of Burkhalter to OPERS, with the delinquent months reported as April 2013 through August 2014, totaling 1022.25 hours worked.

The hours reported on the 'Application' were disputed between the Town and Ms. Burkhalter. Since there were no timesheets available for review, it could not be determined the correct hours that should have been reported.

In a letter dated November 21, 2014, OPERS informed the Town:

The cost to your agency to cover the 1,022 hours of employment is given below.

<b>Employer Cost:</b>	<b>\$ 2,704.10</b>
<b>Interest:</b>	<b>\$ 290.82</b>
<b>Total Due:</b>	<b>\$ 2,994.92</b>
<b>Due Date:</b>	<b>January 31, 2015</b>

The \$2,994.92 was paid to OPERS by the town on December 18, 2014, via check #3320.

Through this payment, the Town covered payments for the delinquent time period of April 2013 – August 2014. However, the Town did not

begin the required monthly payments to OPERS until November 2014, failing to pay for Burkhalter's participation in the months of September and October 2014.

The Town has since paid OPERS \$320.85 via check #3851 dated February 19, 2016, for an invoice submitted by OPERS for the additional unpaid participation amount due. The former clerk-treasurer's OPERS account appears to be current as of the date of this report.

<b>CONCERN 7</b>	<b>OPEN RECORDS REQUEST</b>
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**Background**

A petitioner alleged Town officials had denied access to public records and failed to comply with the Oklahoma Open Records Act when responding to records requests.

**Title 51 O.S. §§ 24A.1 et seq.** defines the "Oklahoma Open Records Act". According to **51 O.S. § 24A.2** of the Act,

"The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power."

Section **51 O.S. § 24A.5** of the Oklahoma Open Records Act states in part;

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours...

**Finding**

**We found no evidence of a violation of the Open Records Act.**

The petitioner was not able to depict any specific situations where copies of, or the right to view public documents were denied. The complaint was that the Town had omitted details from requested copies of the Treasurer's paystub.

**Title 51 O.S. § 24A.7** states in part,

Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from

**TOWN OF FORT SUPPLY  
FORT SUPPLY PUBLIC WORKS AUTHORITY  
CITIZENS PETITION REQUEST  
DATE OF RELEASE: MAY 11, 2016**

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institutions of higher education maintained in the personnel files  
of certified public school employees;

It appears the Town provided the records requested with properly redacted payroll deductions as specified in **Title 51 O.S. § 24A.7**.

We examined several additional open record requests and determined that Town officials appeared to be responsive to request made.

**DISCLAIMER**

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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](http://WWW.SAI.OK.GOV)