



TOWN OF KREMLIN

Citizen Petition Request

January 16, 2020

Cindy Byrd, CPA
State Auditor & Inspector

TOWN OF KREMLIN
GARFIELD COUNTY, OKLAHOMA
CITIZEN PETITION REQUEST
JANUARY 16, 2020

January 16, 2020

TO THE CITIZENS OF THE TOWN OF KREMLIN

Pursuant to your request and in accordance with the requirements of 74 O.S. § 212(L), we performed a special audit of the Town of Kremlin. The objectives of our audit primarily included, but were not limited to, the concerns noted in the citizen petition. The results of this audit are presented in the accompanying report.

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.

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

Sincerely,



CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR





Executive Summary

Why We Conducted This Audit

We performed this audit at the request of the citizens of the Town of Kremlin pursuant to 74 O.S. § 212(L). The scope of the citizen petition was July 1, 2016 through December 31, 2018.

The State of the Town

The Town of Kremlin was embroiled in political controversy when we began our audit fieldwork. Donna Rainey, the town clerk-treasurer, had not been re-elected after several years in office and there was animosity between the current board and the newly elected clerk-treasurer. The Board did not officially acknowledge the new clerk-treasurer upon election and did not provide her the oath of office in a timely manner.

There was also a disagreement over an elected board member's residency qualification, resulting in the individual not being seated as a board member. The Board also sought to maintain Rainey as an employee which caused further controversy.

As the Board struggled to resolve the issues, our investigation revealed that Rainey was also serving as the town clerk-treasurer in the neighboring Town of Hunter and had perpetrated an embezzlement in Hunter. (See complete Town of Hunter report at www.sai.ok.gov)

These issues were addressed by the Board with legal counsel which ultimately resulted in the termination of Rainey's employment and the swearing in of the new officials.

What We Found

- Donna Rainey received three improper payroll payments totaling \$1,175 and did not maintain payroll documentation to support time worked. Rainey was also paid for her elected clerk-treasurer position at a rate exceeding the approved amount set by ordinance, resulting in excess pay of \$13,500. (Pg. 16-17)
- The Town did not prepare budgets or utilize a purchase order system as required by law. Over \$77,000 in funds were expended without board approval and more than \$6,000 was spent without supporting documentation, resulting in the inability to determine if the expenditures were for a public purpose. (Pg. 11-14)



**Executive
Summary**

What We Found - continued

- The Kremlin Volunteer Fire Department operated independent of the Town and maintained a bank account outside of the Town’s authority. The Department also purchased \$3,500 in gift cards, an expenditure that did not appear to be for a public purpose. (Pg. 12-13)
- Utility billing records were not maintained as required, some records were destroyed, altered, or missing. More than \$3,000 in utility payments could not be traced to deposits and adjustments totaling almost \$11,000 were made to customer accounts without supporting documentation or board approval. (Pg. 7-9)
- Community Center rental fees totaling \$1,250 could not be traced to deposits and monies from all sources of collections were not deposited daily as required. (Pg. 10)
- The Board permitted Rainey to conduct official town business and maintain town records at her private residence limiting the public’s access to the official records of the Town. Records were either not maintained, destroyed, or removed from town hall limiting the accountability for all transactions of the Town. (Pg. 4-6)
- The Board violated the Open Meeting Act conducting some items of business improperly under the Act. It also could not be determined if meeting agendas were properly and timely posted. (Pg. 2-3)

Town of Kremlin – Citizen Petition Audit

Introduction The Town of Kremlin (Town) is organized under the statutory town board of trustee’s form of government as outlined in 11 O.S. § 12-101 *et seq.* The Town is governed by a board of five trustees who are elected at large without regard to their place of residence within the corporate limits of the Town. Board members are elected for a four-year term and elect from their members a mayor. The Town Board of Trustees (Board) also serve as the board for the Kremlin Public Works Authority (Authority)¹. The Authority is a public trust established under 60 O.S. §§ 176 *et seq.* and provides utility services to the residents of the Town. The clerk-treasurer is also an elected official of the Town.

Petition & Objectives A citizen petition, verified by the Garfield County Election Board on October 19, 2018, requested an examination of the Town’s records for the period July 1, 2016 through December 31, 2018. The four concerns presented in the citizen petition were used to develop the objectives addressed in the following report.

- I. Review possible violations of the Open Meeting Act including improper, unposted or improperly posted meetings, communications between board members, and restricted public access to meetings.
- II. Review and provide an accounting of current revenues and expenditures including the reconciliation of accounts.
- III. Review possible diversion of public funds, dual-office holding, and outstanding water bill balances of Town officials and personnel.
- IV. Review possible violation of the Open Records Act by failing to properly secure town records and other documents at town hall.

Background During the course of the audit it was discovered that former Kremlin clerk-treasurer Donna Rainey was also serving as the clerk-treasurer in the Town of Hunter. Records reflected that transactions were being comingled between the two towns.

Upon presentation of this information to Garfield County District Attorney Mike Fields, a formal request was made for the State Auditor & Inspector’s Office (SA&I) to perform an investigative audit at the Town of Hunter.² In July 2019, Rainey was charged in District Court with “Embezzlement of Public Money” from the Town of Hunter. She pled guilty in November 2019 and was ordered to pay \$30,000 in restitution to the Town of Hunter.

The audit period and objectives for this audit of the Town of Kremlin were expanded in some areas due to the misappropriation of funds by Donna Rainey in the Town of Hunter.

¹ Throughout the report the term Town will at times also include information concerning the Authority.

² A report on the Town of Hunter can be found on our website at www.sai.ok.gov.

Objective I

Open Meeting Act and Open Records Act

The petitioners were concerned the Town violated the Open Meeting Act and the Open Records Act by improperly posting meeting agendas, discussing town business outside of meetings, and restricting public access to town records.

Agendas and meeting minutes for 37 meetings held between July 2016 through April 2019, were reviewed for compliance with the Open Meeting Act³, including but not limited to verification that:

- Agenda items concurred with meeting minutes;
- Agendas were properly and timely posted;
- Board member attendance was properly documented;
- Actions taken included recorded votes for each member; and
- Minutes included adequate information to document what occurred in the meetings.

Open Meeting Act

Finding ***It could not be determined if agendas were properly and timely posted.***

The minutes provided were disorganized and were not officially signed by the Board to indicate whether they were the approved records of the Town. The minutes were also not maintained at town hall limiting access of the records to the public.

The Town maintained a bulletin board on the front of town hall which was represented by town officials as the placement for posting of all agendas. The minutes consistently referenced that an agenda had been posted; however, it could not be determined that postings were proper or timely without a recorded date and time of such postings. The excerpt shown was included on each agenda but was not completed with the information necessary to address the timeliness of the posting.

This notice posted:	
Date:	Time:
Place: Town Office	

Finding ***The clerk-treasurer did not record the actions of the Board regarding a proposed executive session as required by statute.***

An executive session reflected on the meeting agenda of January 12, 2017, was not recorded in the corresponding minutes. The meeting agenda indicated the Board was to “possibly convene into executive session” to discuss the water/wastewater operator position; however, the minutes did not reflect if the executive session occurred or if any action was taken.

³ Title 25 O.S. §§ 301 *et. seq.*

Town of Kremlin – Citizen Petition Audit

The Board approved the January 12, 2017, minutes at the February 9, 2018, meeting. Based on the approved minutes it could not be determined if an executive session occurred and what action, if any, resulted from the session.

January 12, 2017 - Agenda Item 8

8. Discuss and take action for evaluation of duties of the Water/Wastewater operator position, possibly convene into executive session, as allowed by section 307 (B) O.S. Title 25 and reconvene into open session to take any action related thereto.

January 12, 2017 - Meeting Minutes Agenda Item 8

7. Water Department report – Still only have one pump currently running. Board told Pam to get a meter to replace [redacted] [redacted] bad meter.

8.

8. Old business: There was none

9. Other new business in accordance with Section 311 (9) O.S. Title 25. There was none

The January 12, 2017, minutes were approved in the following meeting although they included two items listed as number “8” with one of these items denoted as “Old business”. There is no provision in the Open Meeting Act allowing for discussion of old business. Any discussion that would arise from previously discussed business, or old business, would be known prior to a board meeting and should be included on the meeting agenda.

Finding The Town hired an employee as part of new business in violation of the Open Meeting Act.

On May 17, 2018, the Board hired an employee “to mow and weed eat the ball field.” The minutes shown indicate the Board discussed and voted on the hiring under “Other new business”.

Other new business in accordance with Section 311 (9) O.S. Title 25. Jamie Maddox moved to hire [redacted] to mow and weed eat the ball field at a rate of \$10.00 per hour. Margaret Myers seconded the move. Vote – Maddox: Aye, Minter: Aye, Myers: Aye, Minnick: Aye, Parrish: Aye. Motion passed.

Title 25 O.S. § 311(A)(10) defines “new business” as any matter not known about or which could not have been reasonably foreseen prior to the time of the posting of the public notice of the meeting.

The decision to employ someone for lawn maintenance would not meet the criteria of “new business” and therefore would be an improper action of the Board in violation of the Open Meeting Act.

Open Meeting Act – Other Issue

SA&I was presented copies of text messages that had allegedly been sent among board members reflecting that an item of town business was discussed outside of a meeting by a quorum of the Board.

Although the messages appeared to include a discussion of potential town business, it could not be determined if the issue being discussed was official business, would require an action by the Board, or if the Board actually took action outside of an official meeting.

Although a group text message that included a quorum could be considered an official meeting of the Board, there was insufficient evidence to conclude on the issue.

Open Records Act

The Open Records Act⁴ is intended to promote transparency in government, establishing the public policy of the State of Oklahoma stating that “the people are vested with the inherent right to know and be fully informed about their government.”

The Act further requires that, “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 The Board permitted former clerk-treasurer Donna Rainey to conduct official town business and maintain town records at her private residence limiting the public’s access to the official records of the Town.

The Board allowed Rainey to operate town business from her home for several years with limited oversight, relinquishing control of the Town’s records and general management of Town business while providing little accountability or oversight.

Town Code Section 2-601 designated the town clerk-treasurer as an official custodian of the Town’s records for the purpose of the Open Records Act and provided detailed instructions concerning how records are to be maintained, managed, and made available for public inspection.

⁴ Title 51 O.S. §§ 24A.1 *et seq.*

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SECTION 2-601 APPOINTMENT OF OFFICIAL CUSTODIANS.

The following town officials are hereby appointed as **official custodians** for purposes of the Oklahoma Open Records Act and are charged with responsibility for compliance with that act with respect to the following listed public records:

1. **Town clerk.** All public records kept and maintained in the town and court clerk's office and all other public records not provided for elsewhere in this chapter;
2. **Town treasurer.** All public records not on file in the office of the town clerk and kept and maintained in the town treasurer's office;

Section 2-605 of ordinance also prohibited records from being removed from town hall stating:

11. Removal of open public records from the office where kept and maintained, for purposes of inspection or the making of copies, shall not be permitted; and

In violation of ordinance, Rainey was permitted to maintain records and conduct town business at her personal residence resulting in the Town having no official hours of operation and limiting the public's access to view or obtain copies of public records.

The Board did not act to bring the Town into compliance until after citizens petitioned for a state audit. On February 14, 2019, the Board voted to have Rainey return all Town documents and the laptop to town hall.

Jamie Maddox motioned to bring all the town documents and the laptop back to the office and that clerk/treasurer come to the town office and work for at least five hours a day. Margaret Myers seconded the motion. Vote – Maddox: Aye, Minter: Aye, Cartmell: Aye, Minnick: Aye, Myers: Aye. Motion passed.

Although the trustees instructed Rainey to return records to town hall in February 2019, all documents were still not available on April 15, 2019, when SA&I began audit fieldwork.

Finding ***Records were destroyed or removed from town hall and adequate records did not exist to properly account for all transactions of the Town.***

Records, including but not limited to, payroll time reports, purchase orders, receipts, invoices, and contracts could not be provided for review. It was also noted that meeting minutes for the January 21, 2019, meeting were missing, as well as utility billing receipts and other records necessary to complete the audit.

According to Town Code Section 2-603, officials have a responsibility to protect public records from damage and disorganization.

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SECTION 2-603 DUTIES OF CUSTODIANS.

All town officials and employees appointed or designated under this chapter shall: protect public records from damage and disorganization;

Statute also requires records of all financial transactions be kept by public officials. Title 51 O.S. § 24A.4 states:

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

SA&I issued a subpoena for documents to all board members on August 15, 2019. The request was issued after several attempts were made to obtain support for the Town's financial transactions.

The board members responded jointly to the subpoena, acknowledging that some records were not maintained or could not be located. Examples of the Board's responses (in red) to our request for documentation are shown below.

Chem Can contracts, invoices, and copies of all payments to or received from Chem Can for the period of July 1, 2016 – August 30, 2019. December of 2017 minutes show agreement, but no contract or documentation can be found

Community Center rates, rental agreements, and receipts, including supporting documentation used to document rental dates between July 1, 2016 – August 30, 2019. There are no rental agreements on file for this time period

Utility customer delinquency reports for the period of July 1, 2016 to August 30, 2019, including an accounting of shut off notices, payment arrangements, and customer disconnects. This request includes, but is not limited to, a complete accounting of payments made by town officials, board members, and the Kremlin Fire Chief. Past records of shutoff notices, payment arrangements and disconnects were not kept.

All purchase orders for the period of July 1, 2016 to August 30, 2019. the town does not use a purchase order system.

Objective II

Revenue

The petitioners requested a review and accounting of revenues which included, but was not limited to, utility billing collections; sales, use, and franchise tax; community center rental fees; and other miscellaneous revenues. Utility collections and community center rental fees are collected directly by the Town. Tax revenues are received or credited monthly and are generally remitted directly from the Oklahoma Tax Commission.

Utility Billing

The Kremlin Public Works Authority provides water, sewer, and garbage services to the Town. The Authority functions in cooperation with the Town as they serve approximately 130 customers.

The Town uses a two-part billing statement, a post-card type statement documenting utility usage, amount of payment due, and due date. The purpose of maintaining one part of the billing stub, or issuing and maintaining a payment receipt, is to allow the clerk to document the payment transaction, to show accountability of funds collected, and to support the posting of a payment to the proper customer utility account. During the audit, we observed the Town did not maintain receipts, ledgers, or billing stubs for all payments.

Town Code Section 17-207 requires utility bills be rendered monthly by the Town, with all bills payable upon receipt. If any bill is not paid by the 20th of the month, a penalty of ten percent (10%) of the bill should be added.

Bills must be paid or postmarked no later than the 25th day of the month or water service will be terminated on the 28th day of the month.⁵ Ordinance also directs that all payments are to be made by mail or at the Main Bank of Kremlin.

Per ordinance, the Town accepted payments via mail and at the Bank of Kremlin; however, payments were also collected at town hall and at the home of former clerk-treasurer Rainey.

Finding Utility billing records were not maintained as required. Billing stubs were destroyed, and customer account histories were altered or were missing information.

Utility billing stubs should be maintained and serve as receipts for customer utility payments. No stubs could be located at town hall. The day SA&I was working at town hall, the auditor found the March 2019 bill stub shown here shredded and thrown in the trash.



⁵ Town Code Section 17-208.

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Rainey acknowledged that utility billing stubs were destroyed that could have otherwise served as receipts for utility payments. She also represented that she did not maintain receipts for utility billing collections. Without bill stubs and/or utility billing receipts it could not be determined if collections for utility billing had been properly receipted, recorded, and deposited.

Title 11 O.S. § 22-131(A) requires utility receipts and statements, along with utility billing ledgers and registers be retained. The Town should require that adequate utility billing records be maintained to properly document utility billing activity.

It was also noted that customer utility histories had been altered or were missing information. Accounts were missing several months of activity, with no billing or payment information documented to support the missing months. For example, an active water account reflected a payment was made on October 15, 2015, with another payment not being recorded until May 13, 2016. No documentation could be found to support the seven-month gap.

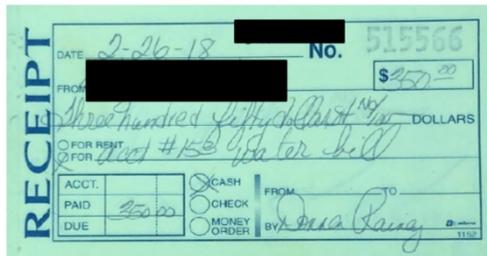
█	█
1 Payments on 10/15/2015	Totaling \$112.07
█	█
1 Payments on 5/13/2016	Totaling \$100.00

Finding

At least \$3,188 in utility payments could not be traced to deposits.

Despite Rainey's claims of not utilizing receipts, one carbon copy receipt book was located locked in a filing cabinet at town hall. The receipt book contained receipts for utility payments documented as collected by Rainey, although she had previously denied receiving direct payments or issuing receipts.

Two *examples* from our transaction testing shown here, receipt number 515566 for \$350 cash and receipt number 515570 for \$700 cash, both payments for utility billing, could not be traced to deposits.



RECEIPT

DATE: 2-26-18 No. 515566

FROM: █ \$350.00

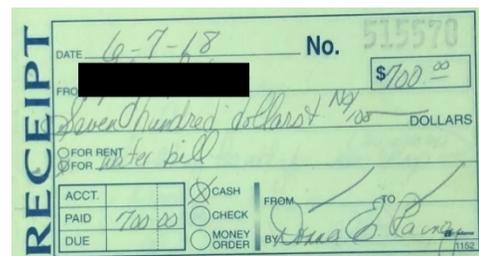
THREE HUNDRED FIFTY DOLLARS

FOR RENT #155 Water bill

ACCT. PAID 350.00 DUE

CASH CHECK MONEY ORDER

BY: Dana Rainey



RECEIPT

DATE: 6-7-18 No. 515570

FROM: █ \$700.00

SEVEN HUNDRED DOLLARS

FOR RENT #155 Water bill

ACCT. PAID 700.00 DUE

CASH CHECK MONEY ORDER

BY: Dana Rainey

At least \$3,188 in utility payments were receipted by Rainey but could not be traced to bank deposits, indicating the funds were potentially misappropriated or otherwise diverted.

The potential of misappropriated funds was communicated to the Board. They agreed to work to create additional internal controls to reduce the risk of lost revenue, including a new policy to no longer accept cash payments.

Finding *Adjustments totaling \$10,995 were made to customer utility accounts without supporting documentation or board approval.*

During the audit period over 550 adjustments were posted to customer utility accounts; 530 of these adjustments, totaling \$10,995, were completed without explanation, board approval, or documentation of any other review process.

Utility billing adjustments should be documented and approved by someone independent of the posting. Without proper oversight billing adjustments can be utilized to manipulate the posting of utility collections and help conceal the diversion of payments received.

We found no evidence a policy or ordinance to govern adjustments to utility accounts had been established by the Town. The Board should work to create oversight of utility adjustments to help protect the Town from lost revenue and decrease the risk of misappropriation.

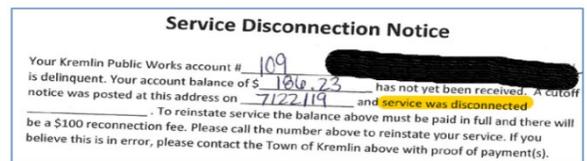
Finding *Two former board members and the Kremlin Fire Chief were allowed to carry past due balances on their utility accounts without penalties or service disconnection.*

Fire Chief Jeff Baker, and former board members Andy Minnick and Mike Parrish were allowed to carry past due balances on their utility accounts. In some instances, no payments were made on the accounts for months without accruing late fees or having their utility service disconnected as required by ordinance.

Former trustees Mike Parrish and Andy Minnick accumulated past due balances of \$1,948.20 and \$809.01 before paying off the accounts in November 2018 and December 2018, respectively.

During the audit period, Jeff Baker’s outstanding balance reached a high of \$2,282.36 in June 2018. Receipts throughout the period reflected that Baker made payments on occasion, reducing the balance to a low of \$114.74; however, the account was never paid-in-full during the audit period.

Baker continued to miss payments through 2019, and on July 22, 2019, received a notice his account was \$536.85 past due. The notice did not indicate a service disconnect date, Baker’s service was not disconnected, and no late fee was accrued as required by ordinance.



Beginning October 2019, town officials reported Baker had paid the past due balance after receiving a second disconnection notice.

All utility customers, including town officials, should be required to pay their monthly utility bill by the 15th of the month or incur a 10 percent (10%) late fee. If

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the balance due is not paid, then service should be disconnected as required under Town Code Section 17-207.

In addition, Article X, Section 11 of the constitution prohibits officers of the State from receiving perquisites from the use of public funds, stating in part:

The receiving, directly or indirectly, by any officer...of any county, city, or town...,of any interest, profit, or perquisites, arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State, city, town, district, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

Finding Former clerk-treasurer Donna Rainey did not make daily deposits as required.

Funds were not deposited daily as required by 62 O.S. 517.3(B) which states in part:

The treasurer of every public entity shall deposit daily, not later than the immediately next banking day, all funds and monies of whatsoever kind that shall come into the possession of the treasurer by virtue of the office...

Rainey, as the clerk-treasurer, was statutorily responsible for the daily deposit of all monies collected. The delays in depositing utility payments varied, with some deposits held for days or weeks.

Community Center

Finding Community Center rental collections totaling \$1,250 could not be traced to bank deposits.

The Town's Community Center was available to the public for a rental fee of \$125 per event which was reportedly collected by the clerk-treasurer. We found no evidence rental fee income was tracked, receipted, or deposited for all customers who rented the facility.

RECEIPT

DATE: 8-27-16 No. 515930

FR [REDACTED] \$125.00

One hundred twenty five & 00/100 DOLLARS

FOR RENT FOR of community building

ACCT. PAID DUE

CASH CHECK MONEY ORDER

FROM TO BY Donna Rainey

A total of \$1,250 in rental fees documented as received could not be traced to bank deposits, indicating the funds were misappropriated or otherwise diverted.

Objective III

Expenditures

Payments totaling \$702,472.46 were issued for purchases between July 1, 2016 through May 31, 2019,⁶ from the Town’s General Fund and the Kremlin Public Works Authority.

A sample of the payments were reviewed to determine if payments were:

- properly approved by the Board;
- adequately recorded and documented in the Town’s records; and
- for a valid municipal purpose.

Finding *A total of \$77,360.26 in funds were expended without being presented to the Board for approval.*

Payments were compared to board meeting minutes to determine if checks written were presented to the Board for approval. A total of \$77,360.26 in expenditures did not appear in the recorded minutes as approved by the Board. The unapproved payments were issued throughout the audit period to various vendors including Lowe’s, OG&E, AT&T, Munn Supply, John Deere Financial, Postmaster, Staples, and Home Depot.

Town Code Section 7-109B requires the town clerk-treasurer to prepare monthly reports of all receipts and expenditures and such reports be presented for board approval. The payments were not located in meeting minutes indicating the Board did not review or approve the transactions. The Board was unaware the payments had been issued without being presented for approval.

SECTION 7-109B FINANCIAL REPORTING

1. The Town Treasurer shall prepare written monthly financial reports which disclose at least all receipts and expenditures by fund in the same format as the approved budget and showing the variance of the budget.

2. The financial reports shall be placed on the agenda for acknowledgment by the governing body at each regular meeting. Trustees shall approve such invoices for payment in the amount the Board determines just and correct.

Finding *The Town did not prepare budgets or utilize a purchase order system as required by law. Purchase orders could not be provided for transactions occurring during the audit period.*

⁶ The review of expenditures was expanded through May 2019 due to embezzlement activity discovered in transactions managed by former clerk-treasurer Donna Rainey in her duties with the Town of Hunter.

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As required by 62 O.S. § 310.1(A), purchase orders are required in the purchasing process and should be submitted or encumbered prior to the time a purchase is made. The statute states in part:

*Unless otherwise provided by ordinance, officers, boards, commissions and designated employees of cities and towns...having authority to purchase or contract against all budget appropriation accounts as authorized by law **shall submit all purchase orders and contracts prior to the time the commitment is made**, to the officer charged with keeping the appropriation and expenditure records...[Emphasis added]*

Although an ordinance may provide an alternate method of initiating a purchase order, statute⁷ requires a budget and the tracking of appropriations and encumbrances. Town Code Section 7-105 also requires purchase orders be utilized and funds be encumbered against designated appropriations prior to the time a purchase is made. The ordinance also stated that no purchase order or contract shall be valid unless signed and approved and instructs the clerk to retain and file a copy of the purchase order.

During the audit it was determined the Town had not prepared a budget and did not utilize a purchase order system. Invoices and receipts were retained for some purchases; however, proper purchasing procedures were not followed.

We requested purchase orders be provided via an administrative subpoena issued to all board members on August 15, 2019. The joint response shown below (in red) confirmed the Town did not utilize purchase orders as required.

All purchase orders for the period of July 1, 2016 to August 30, 2019. the town does not use a purchase order system.

The Town should encumber funds after verifying appropriations as defined in an annual budget. Once funds are verified as available, a purchase order should be issued before expending public funds. After the purchase is made, an invoice, receipt, and acknowledgement of receipt of each purchase should be provided to the Board for final approval.

Finding ***The Kremlin Volunteer Fire Department operates independently of the town board. The Department maintained a bank account outside of the authority of the Town and the financial activity of the Department was not reported to, or approved by, the Board.***

According to Town Code Section 13-201, the Kremlin Volunteer Fire Department (Department) is organized under 11 O.S. §§ 29-201 *et seq.* which states in part:

⁷ 68 O.S. § 3001-3033; 62 O.S. § 461

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The municipal governing body may procure all necessary equipment for protection and prevention against fire and provide for the organization of a municipal fire department. The governing body may enact such ordinances, resolutions and regulations as may be necessary to establish and operate a fire department...

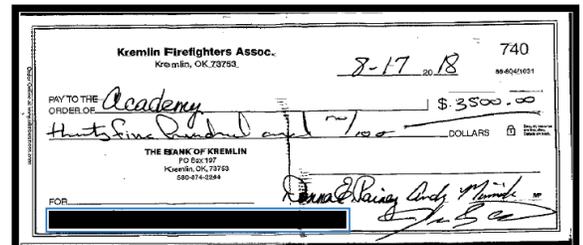
"Municipal governing body" is defined in 11 O.S. § 1-102 as the board of trustees of a town.

The Department's financial activity is administered separate from the oversight of the Board. The Fire Chief was not required to submit expenditures to the Board for review and approval. The clerk-treasurer and the mayor served as authorized signors on the fire departments checking account but did not present payments to the Board for approval.

The Board should govern the financial activity of the Department, including approving all expenditures made and transactions incurred.

Finding ***The fire department purchased \$3,500 in Academy Sports & Outdoors gift cards, an expenditure that did not appear to be for a public purpose and was made without board approval.***

In August 2018, the Town purchased \$3,500 in gift cards from Academy Sports & Outdoors. The former clerk-treasurer and mayor jointly signed the check with the fire chief, but without the Board's approval. We found no evidence the 15 gift cards were for a public purpose or benefit.



The cards were reportedly purchased for Christmas gifts for the volunteer firemen; however, they were bought in August months before the holiday season. The firemen were awarded the gift cards in various amounts based on their years of service.

Attorney General Opinion 01-030 reflects that an expenditure of public funds must comply with the Constitution, stating in part:

An expenditure of public funds or a use of public property must comply with Article X, §§ 14, 15 and 17 of the Oklahoma Constitution. These provisions mandate that any expenditure of public funds or use of public property be in furtherance of a lawful public purpose and not a gift. [Emphasis added]

Finding ***The Town made questionable purchases totaling \$3,759.70 from a local grocery store. At least \$2,361.31 of the purchases were made by the Kremlin Fire Department without board approval.***

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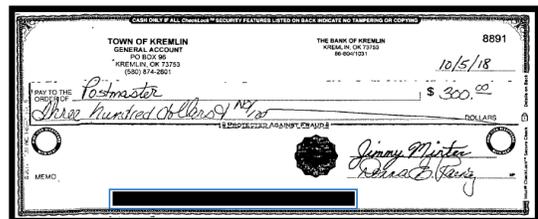
A total of \$3,759.70 in purchases made at a local grocery store was not properly supported by receipts and at least \$2,361.31 of these purchases were made without board approval.

The Board reported that some of the purchases were for meals for firemen during training sessions, or for water and other snacks stored at the fire station to support fire department operations. No receipts were provided to document the purchases so the purpose of the expenditures could not be determined.

Finding *The Town issued a total of \$638 in payments to the “Postmaster” without supporting documentation or board approval.*

We reviewed all payments issued to the “Postmaster” during the audit period. A total of \$2,321 in checks were issued; however, a total of \$638 of costs could not be traced to receipts and were not approved by the Board. The four undocumented payments were issued in various amounts ranging from \$94 to \$300.

Check number 8891 shown was issued on October 4, 2018, in the amount of \$300. This payment had no supporting documentation and was not approved by the Board.



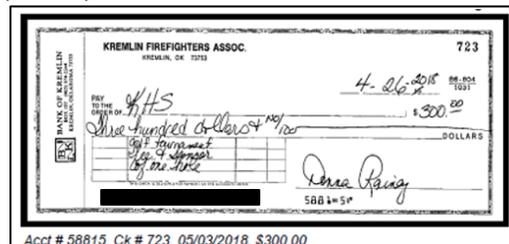
According to Town Code Section 2-312, the mayor and clerk-treasurer were to sign all checks. At the time the check was signed Minter was not the board appointed mayor.

SECTION 2-312 MAYOR AND TREASURER TO SIGN WARRANTS AND CHECKS

Notwithstanding any provision to the contrary, both the Mayor and the City Treasurer shall sign all warrants, checks and other legal instruments incurring financial liability for the same to be legally effective.

Finding *Former clerk-treasurer Donna Rainey issued a \$300 payment to Kremlin High School for the sponsoring of a golf tournament without proper board approval.*

Check number 723 was issued on April 26, 2018, in the amount of \$300 to Kremlin High School. The memo on the check reflects the payment was to sponsor the local golf tournament. The check was not addressed in the board minutes or listed among the Town’s expenditures submitted for board approval.



The payment was also issued from the Kremlin Fire Department checking account with only one authorized signature.

Finding ***An employee hired for mowing services received payments totaling \$1,623.48 without any supporting documentation.***

On May 17, 2018, the Board hired an employee to mow and weed eat the ball field at a rate of \$10 per hour. Subsequent to the hiring, we found no evidence the employee submitted timesheets or other supporting documentation to support the time worked between June and November of 2018, resulting in a total of \$1,623.48 in unsubstantiated payments.

Finding ***There was a comprehensive lack of internal controls, board oversight, and compliance with municipal code and law in the management of the Town’s finances.***

The Board, the mayor, and the former clerk-treasurer each had a responsibility to govern and implement effective internal controls to help insure Town finances were properly managed and that Town assets were properly protected.

The former clerk-treasurer was permitted to operate independently of the Board and maintain records and conduct business at her private residence. There was no evidence the Board provided oversight of her work or that the records maintained were ever provided to them for review.

The lack of internal controls was also documented in the Town’s independent audits issued in 2016, 2017, and 2018. According to the independent auditor, “The same employee maintains the general ledger, the billing system, performs reconciliations, and collects payments, with no compensating procedures to provide for oversight or review...” The repeat finding indicated the Town had knowledge of the weaknesses and allowed them to continue over several years.

Objective IV

Payroll

Due to the embezzlement of payroll related payments by former clerk-treasurer Rainey in the Town of Hunter, it was determined an evaluation of payroll for an additional 24-months beyond the initial scope of our engagement would be performed. This expanded our review of payroll to the approximate four and a half-year period reviewed during the Hunter investigation.

The former clerk-treasurer Donna Rainey was issued \$96,000 in payroll payments between July 1, 2014 and March 30, 2019, from the Town of Kremlin and the Kremlin Public Works Authority.

Finding Donna Rainey was paid for her elected clerk-treasurer position at a rate exceeding the approved amount set by ordinance, resulting in excess pay of \$13,500.

According to 11 O.S. § 12-113, the compensation of all elective town officers shall be fixed by ordinance. Town ordinance established the town clerk-treasurer pay at \$275 each pay period effective July 14, 2005. There was no evidence the ordinance was ever *officially* amended through the end of Rainey’s employment in March 2019.

SECTION 2-301 TOWN CLERK-TREASURER.
 The salary for the position shall be the amount of \$275.00 each pay period.

Rainey was paid at varying rates over the time period reviewed. Between July 2014 and March 2019 Rainey’s clerk-treasurer pay exceeded the approved ordinance amount by \$13,500. Two pay checks were issued each month from the general fund in amounts ranging from \$375 to \$450 per month.

Pay Period	Pay Due Per Ordinance	Actual Pay	Pay In Excess of Ordinance
July 2014 – May 2017	\$19,250	\$26,250	\$7,000
June 2017 – May 2018	\$6,600	\$9,600	\$3,000
June 2018 – March 2019	\$5,500	\$9,000	\$3,500
Totals	\$31,350	\$44,850	\$13,500

On June 7, 2017, the Board voted to change the Town clerk-treasurer position to a city manager position and increase pay by \$100, this increase was not addressed by an official town ordinance. Also, a Town Board of Trustees form of government⁸ does not allow for the position of city manager and an elected official’s pay cannot be changed during a term of office.⁹

⁸ Title 11 O.S. § 12-101

⁹ Oklahoma Constitution Article 23 Section 10

13. Pete Voth motioned to go into executive session at 8:34 p.m. Jamie Maddox seconded the motion. Pete motioned to reconvene back into the regular meeting at 8:50 p.m. Jimmy Minter seconded the motion.
Pete Voth motioned to change the Clerk/Treasurer position to a City Manager position, and the composition for this is \$100.00 more a month. Jamie Maddox seconded the motion. Vote – Maddox: Aye, Voth: Aye, Parrish: Aye, Minter: Aye. Motion passed.

On June 14, 2018, the Board again voted to increase Rainey’s compensation.

10. Jamie Maddox motioned to convene into executive session at 9:45 p.m. Margaret Myers seconded the move. Vote – Maddox: Aye, Minter: Aye, Myers: Aye, Minnick: Aye, Parrish: Aye. Motion passed.
Jamie Maddox motioned to reconvene back into regular session at 10:10 p.m. Margaret Myers seconded the move. Vote – Maddox: Aye, Minter: Aye, Myers: Aye, Minnick: Aye, Parrish: Aye. Motion passed.
Jamie Maddox moved to increase compensation for extra duties of the clerk/treasurer. Margaret Myers seconded the move. Vote – Maddox: Aye, Minter: Aye, Myers: Aye, Minnick: Aye, Parrish: Aye. Motion passed.

Payroll records indicated Rainey received a pay increase of \$100 monthly. An elected official can be paid for extra duties; however, this pay, along with the extra duties, would need to be properly defined and approved in the minutes and the amount documented in an official ordinance signed, dated, and approved by the Board. We found no evidence of any amount authorized by the Board or that Town ordinances were updated to support the increase.

There was evidence the Board intended for Rainey to receive pay increases. However, without officially approved ordinances in place the increases would not be allowable.

Finding Donna Rainey was issued three improper payroll payments totaling \$1,175.

In July 2015, Rainey was overpaid from the General Fund \$750 and from the Authority \$425, for a total overpayment of \$1,175.

Payroll records prior to July 2015 indicated paychecks were irregularly disbursed and often issued before the end of a pay period. Some payments were made on the 10th of the month for a pay period ending on the 30th of the month.

In July 2015, it appeared Rainey attempted to correct the irregular payment pattern and begin issuing paychecks at the end of a pay period. During the adjustment process, two overpayments from the General Fund and one overpayment from the Authority were made totaling \$1,175.

Finding ***Donna Rainey did not maintain timesheets or other payroll documentation to support time worked for the Town or the Authority.***

We found no evidence Rainey maintained timesheets or other payroll reports documenting time worked as required by Town Code Section 7-107.

B. For each pay period, a record of time worked shall be prepared in the form of time sheets or logs for each employee and officer to be paid. Such record of time worked shall be verified as to its accuracy in writing by the Town Treasurer.

As previously discussed, Rainey was serving as the clerk-treasurer for both the Town of Hunter and the Town of Kremlin and worked from her home for both towns simultaneously. Without records documenting time worked it could not be determined if compensation paid was appropriate.

Town of Kremlin – Citizen Petition Audit

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 the State Auditor & Inspector's Office. This Office 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, prosecutorial, and/or judicial authorities designated by la

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STATE AUDITOR & INSPECTOR



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