

**TOWN OF  
MAYSVILLE**

**GARVIN COUNTY**

**JULY 1, 2006 THROUGH  
DECEMBER 31, 2007**



# SPECIAL AUDIT



Oklahoma State Auditor  
& Inspector



# TOWN OF MAYSVILLE GARVIN COUNTY SPECIAL AUDIT REPORT JULY 1, 2006 – DECEMBER 31, 2007

**STEVE BURRAGE, CPA**

OKLAHOMA OFFICE  
OF THE  
STATE AUDITOR & INSPECTOR

## Why the audit was performed

The Town Board of Trustees  
requested the audit pursuant to  
74 O.S. 2001 227.8

## Audit Summary:

- ✓ The Town's general fund bank account was overdrawn in July 2007. **Pg 9**
- ✓ The Town Board of Trustees was not given financial information for an extended period of time. **Pg 10**
- ✓ The Town does not follow its own Town Code or State law concerning how purchases are made and approved. **Pg 10**
- ✓ The Town does not encumber funds nor draw against an appropriation ledger, as required by State law. **Pg 11**
- ✓ The Town was unable to provide some meeting minutes and consent agendas that are required to be maintained by the State Open Meeting Act. **Pg 13 & 21**
- ✓ The Town's books and records may not be auditable for the current fiscal year. **Pg 15**
- ✓ Cash, in the amount of \$317.70 cannot be traced to deposits and may be missing. **Pg 16**
- ✓ One receipt, including all carbon copies, has been removed from a receipt book. **Pg 19**
- ✓ When deposits are made it appears that all on-hand funds are not being deposited. **Pg 19**

To view a copy of the entire report, please visit our website at: [www.sai.state.ok.us](http://www.sai.state.ok.us).

If you have questions or would like to contact our office, please call (405) 521-3495.

**TOWN OF MAYSVILLE**

**GARVIN COUNTY**

**SPECIAL AUDIT REPORT**

**JULY 1, 2006 THROUGH DECEMBER 31, 2007**

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# STATE AUDITOR AND INSPECTOR

STEVE BURRAGE, CPA  
State Auditor

MICHELLE R. DAY, ESQ.  
Chief Deputy



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October 22, 2008

Honorable Don Breitreutz, Mayor  
Town of Maysville  
P.O. Box 536  
Maysville, Oklahoma 73057-0536

Transmitted herewith is the Special Audit Report of the Office of the Town of Maysville, Garvin County, Oklahoma. We performed our special audit in accordance with the requirements of **74 O.S. § 227.8**.

A report of this type tends to be critical in nature; however, failure to report commendable features in the present accounting and operating procedures of the entity should not be interpreted to mean they do not exist.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

Handwritten signature of Steve Burrage in blue ink.

STEVE BURRAGE, CPA  
STATE AUDITOR & INSPECTOR

Handwritten signature of Michelle R. Day in blue ink.

MICHELLE R. DAY, ESQ.  
DEPUTY STATE AUDITOR & INSPECTOR

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**TOWN BOARD OF TRUSTEES**

- Donald Breitkreutz ..... Mayor
- Rick Southard ..... Vice Mayor
- Marshall Neill ..... Trustee
- Jacque Martin ..... Trustee
- Ed Pharoah ..... Trustee

# STATE AUDITOR AND INSPECTOR

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Honorable Don Breitreutz, Mayor  
Town of Maysville  
P.O. Box 536  
Maysville, Oklahoma 73057-0536

Dear Mr. Breitreutz:

Pursuant to the Town Board Of Trustees' request and in accordance with the requirements of **74 O.S. § 227.8**, we performed a special audit with respect to the Town of Maysville, Garvin County, Oklahoma for the period July 1, 2006 through December 31, 2007.


The objectives of our special audit primarily included, but were not limited to, the objectives expressed by the Town Board of Trustees. Our findings related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Town of Maysville for the period July 1, 2006 through December 31, 2007. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Town of Maysville.

This report is intended solely for the information and use of the Town of Maysville Board of Trustees and its administration and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)** and shall be open to any person for inspection and copying.

Sincerely,

  
STEVE BURRAGE, CPA  
STATE AUDITOR & INSPECTOR

  
MICHELLE R. DAY, ESQ.  
DEPUTY STATE AUDITOR & INSPECTOR

June 9, 2008

**INTRODUCTION**

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

**11 O.S. § 12-101**, states:

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

The Maysville Municipal Authority is a public trust established under **60 O.S. § 176 et seq.**

A private, independent audit firm audits the Town and the Authority annually. In addition, the Town prepares an annual financial statement, presenting the financial condition of the Town at the close of the previous fiscal year, in accordance with the requirements of **68 O.S. § 3002.**

The Office of the State Auditor and Inspector (OSAI) conducted a special audit of the records of the Town, primarily those records relating to the objectives expressed by the Town Board of Trustees in their request. The results of the special audit are in the following report.

**BOARD OF TRUSTEES FIDUCIARY RESPONSIBILITY**

The Board of Trustees for the Town of Maysville, as well as the Maysville Municipal Authority, has an obligation to act in the best interest of the Town and/or the Authority as a whole. This fiduciary responsibility requires that all funds belonging to the Town and/or the Authority be handled with scrupulous good faith and candor. Such a relationship requires that no individual shall take personal advantage of the trust placed in him or her. When the Board of Trustees accepts responsibility to act in a fiduciary relationship, the law forbids them from acting in any manner adverse or contrary to the interest of the Town and/or Authority. Further, the Town Clerk/Treasurer has a fiduciary responsibility to perform all statutory duties in maintaining accurate, complete, and reliable records for the Town of Maysville and/or Maysville Municipal Authority.



**BACKGROUND**

Prior to the start of the audit, OSAI met with the Town's Mayor concerning the scope and focus of the audit requested by the Town's Board. During this meeting, the Mayor expressed a concern about where the Town's money had gone. This concern was based, at least in part, on the Town's general fund having been overdrawn in December 2007.

From the meeting, OSAI was asked to determine three specific things:

1. Has the Town received any portion of a \$496,900.00 grant?
2. How many water wells were approved to be drilled and what were the expenses associated with those water wells.
3. Has there been a misappropriation (theft) of funds from the Town coffers.

These concerns appear to have been based, at least in part; on the fact the Town Board is unable to determine where the Town's money has gone.

OBJECTIVE

Determine when and why the Town's balances declined.

FINDINGS

- **Financial audits indicated the Town's general fund has had financial difficulties since 2006.**
- **The revenue received by the Town for sales tax collections has declined.**
- **General fund expenditures have routinely exceeded revenue on a monthly basis during FY06-07.**
- **The Town's general fund was overdrawn in July 2007.**
- **The Town board was not presented any financial information for a six-month period.**
- **Purchasing procedures, as defined in the Town Code, and State Law, are not followed.**
- **The Town does not encumber funds nor draw against an appropriation ledger, as required by law.**
- **The Town does not comply with the Open Meetings Act, meeting minutes and consent agendas cannot be found.**
- **The Town's books and records may not be auditable for the current fiscal year.**

**Financial audits indicated the Town's general fund has had financial difficulties since 2006.**

OSAI obtained copies of the prior financial audits for FY05-06 and FY06-07. According to the financial audit report, during the FY05-06 period the Town's general fund revenue was \$332,665.00 while reported expenditures were \$398,681.00, for a loss of \$66,016.00. For the same period, the revenue generated from water and sewer totaled \$375,932.00 while the expenditures reported were \$406,427.00 for personal services and maintenance and operations, a net loss of \$30,495.00.

Reported revenue for the Town's general fund for the FY06-07 period totaled \$330,908.00 while the expenses reported for the same period were reported as \$329,266.00, a net gain of \$1,642.00. During the same period, the water and sewer revenue was reported as \$433,036.00 while expenditures for personal services and maintenance were reported as \$524,380.00, a net loss of \$91,344.00.

During OSAI's initial conversation with the Mayor, he expressed concern over the increases in water rates over the years. From the FY05-06 to the FY06-07 audit periods, the revenue generated from water and sewer reportedly increased \$57,104.00 while expenditures also increased by \$117,953.00.

**The revenue received by the Town for sales tax collections has declined.**

The Town receives a monthly sales tax disbursement from the Oklahoma Tax Commission (OTC). The sales tax disbursement is electronically transferred from OTC to the Town's general fund account. Following receipt of the sales tax, the Town then makes a disbursement to the Town Library Fund and the Town Street Improvement Fund (9.375% and 15.625%, respectively).

During the period from July 1, 2006 through December 31, 2006, the sales tax distribution for the Town's general fund was \$96,052.85. For the same period in 2007, the general fund distribution fell \$2,080.02 to \$93,972.83.

**General fund expenditures have routinely exceeded revenue on a monthly basis during FY06-07.**

OSAI examined the monthly bank statements for the Town's general fund and found that the general fund expenditures exceeded revenues routinely during the audit period.

In August 2006, the general fund beginning balance was \$28,894.68. The balance declined an average of \$5,023.32 for the next four (4) months (September through December) to a beginning monthly balance of \$8,801.40 in December.

On December 14, 2006, a transfer was made from the street improvement fund to the Town general fund in the amount of \$35,000.00. The general fund closed the month out with a balance of \$18,026.83. In February, the month's ending balance had dropped to \$10,180.58.

Deposits from the municipal court to the Town's general fund in March and April, and with other miscellaneous deposits, the Town's general fund balance on June 1, 2007 was \$12,551.59. By the end of the month, and the end of the fiscal year, the general fund account balance was \$1,019.58.

**The Town's general fund was overdrawn in July 2007.**

On July 3, 2007, the Town general fund was overdrawn \$-821.77. In order to prevent checks written in June from overdrawing the account even further, \$7,300.00 was transferred from the court fund to the general fund.

In August 2007, the general fund balance improved to a beginning balance of \$21,997.07, due in large part to a franchise fee collection of \$24,542.14. The beginning balance fluctuated but remained relatively the same until December 2007.

The beginning balance in December 2007 was \$20,586.35. By the end of the month, the balance had declined to \$48.81. During the month of December, payroll related expenditures totaled \$26,861.56, including \$17,344.01 paid for employee benefits, including payments to Blue Cross Blue Shield, Oklahoma Municipal Assurance Group, Oklahoma Municipal Retirement Fund, AFLAC and Brokers National Insurance.

**The Town Board was not presented any financial information for a six-month period.**

During the course of fieldwork, OSAI was advised that the Town Board had not received any financial information for an indeterminate period of time. OSAI interviewed the Mayor who stated the Town Board had not received financial information “for about a year.”

Another Town Board member advised that no information had been received for about nine (9) months, from around July 2007 forward. According to this Member, the Board had been “flying blind for 9 months”.

The legal implications of the Town Board approving payments without certain financial information are addressed later in this section.

**Purchasing procedures, as defined in the Town Code and State Law, were not followed.**

The Town Code, 1-8-4, states:

PURCHASES: All purchases of supplies, materials, equipment and contractual services for the offices, departments and agencies of the town government, shall be made by the town board of trustees or by other town personnel in accordance with purchase authorizations issued by the town board of trustees. (ea)

Based on the language contained in the Town Code, it appears that the Town Board of Trustees must authorize all purchases before they are made.

OSAI spoke with current and past employees as well as current and past Board members. All concurred the Town Board “approved” paying for obligations that had already been made.

OSAI performed a cursory examination of purchase orders for the Town and found that purchase orders appear to be created more as a formality rather than as any part of an approval process. The following are examples of what was found:

- Purchase order 118 dated 8/27/2007, was ‘approved’ by the Town Board on 9/19/2007. The purchase order was for office supplies purchased 8/3/2007.

- Purchase order 129 dated 9/5/2007, was 'approved' by the Town Board on 9/19/2007. The purchase order was for items purchased on 8/3/2007.
- Purchase order 135 dated 9/6/2007, was 'approved' by the Town Board on 9/19/2007. The purchase order was for an item purchased two months earlier on 7/19/2007.

**62 O.S. 310.1(B)** states:

After satisfactory delivery of the merchandise or completion of the contract, the supplier shall deliver an invoice. Such invoice shall state the supplier's name and address and must be sufficiently itemized to clearly describe each item purchased, its unit price, where applicable, the number or volume of each item purchased, its total price, the total of the purchase and the date of the purchase. The appropriate officer shall attach the itemized invoice together with delivery tickets, freight tickets or other supporting information to the original of the purchase order and, after approving and signing said original copy of the purchase order, shall submit the invoices, the purchase order and other supporting data for consideration for payment by the governing board. All invoices submitted shall be examined by the governing board to determine their legality. The governing board shall approve such invoices for payment in the amount the board determines just and correct. [emphasis added].

While examining purchase orders for September 2007, OSAI found seven (7) purchase orders contained no supporting documents, such as receipts or invoices, to substantiate the purchase orders. In each case the purchase orders indicated approval by the Town Board.

**The Town does not encumber funds nor draw against an appropriation ledger, as required by law.**

**62 O.S. 310.2** states, in relevant part:

The amount and purpose of each purchase order or contract shall be charged against the appropriation as made by the excise board or governing body at the time purchase is made or contract let and the balance in the appropriation account after such charges are deducted shall constitute the unencumbered balance available.

No purchase order shall be paid until approved by the officer, board or commission having charge of the office or department for which the appropriation is available and from which such payment is proposed to be made, provided that no indebtedness for any purpose shall be incurred in excess of the appropriation for that purpose and provided that the county and municipal officers referred to herein are made responsible on their official bond for any and all indebtedness incurred by them.

**62 O.S. 310.3**, states:

Any county or municipal officer who in his capacity as an officer or as or through a purchasing officer shall incur or cause to be incurred any indebtedness, purchase order or obligation for any purpose or for any account in excess of the appropriation available therefore shall forfeit and be removed from office in the manner provided by law for willful maladministration.

OSAI interviewed current Board members, past Board members, current employees and past employees who all concur, the Town does not encumber funds. We asked for an appropriation ledger for the current year and were told that either one does not exist and/or if one does exist, it is not used.

The duties of the Town Clerk/Treasurer are defined by the Town Code 1-7-1, which states, in part:

Maintain accounts and books to show where and from what the source all monies paid to him have been derived and to whom and when any monies have been paid.

**11 O.S. 12-110**, states:

The town treasurer shall be an officer of the town. The town 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 Maysville Clerk/Treasurer is a part-time job paying \$200.00 a month for 30 hours a month, according to the current Clerk/Treasurer who took over the unfilled position in late April 2008.

Currently the Clerk/Treasurer does not reconcile the bank statements nor does she "maintain accounts and books" of the Town's accounts and payments. According to the current Clerk/Treasurer, her job is to create agendas, attend meetings and take minutes.

Currently, the Office Manager for the Town, rather than the Town Treasurer as defined by both the Town Code and State law, handles bills, payments and reconciliations of the Town's accounts.

The Office Manager stated that as of January 2007, when she assumed the duties of a former employee, she does not encumber funds; and if there is an appropriation ledger, it is not used. A former employee who worked for the Town from 2002 through 2008 stated funds were not encumbered.

Each of the purchase orders reviewed included an encumbrance and approval statement as well as a declaration indicating the encumbrance *"has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriations"*.

FISCAL YEAR 20 <u>07-08</u>
DATE <u>9-5</u> , 20 <u>07</u>
APPROPRIATION ACCOUNT
I hereby approve the issuance and encumbrance of this purchase order.
_____ <i>Purchasing Officer</i>
I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.
DATED THIS _____ DAY OF _____, 20 _____
_____ <i>Encumbering Officer or Clerk of</i>

In each case, OSAI found these portions of the purchase orders were blank.

Based on OSAI's review of the Town's purchase orders and interviews with both current and former Board members and employees, it appears the Town does not encumber funds against appropriations, as required by **62 O.S. 310.2**.

**The Town does not comply with the Open Meeting Act; meeting minutes and consent agendas cannot be found.**

The purpose of the Open Meeting Act is "to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems", as stated in **25 O.S. § 302**.

The Oklahoma Open Meeting Act, **25 O.S. § 312(A)** states:

The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.

**25 O.S. § 314**, states:

Any person or persons willfully violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment.

**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.

In addition to requirements to keep minutes of public meetings, the governing board is also required by **51 O.S. § 24A.4** to keep and maintain consent agendas, the instrument the Board uses to approve the payments for the obligations already made.

The Town Code states that one of the duties of the Town Clerk/Treasurer is to “keep the journal of the proceedings of the board”. The Town Code mirrors **11 O.S. § 12-109**, which also states one of the duties of the Town Clerk, shall be to “keep the journal of the proceedings of the board of trustees.”

Throughout the course of the audit fieldwork, OSAI had difficulty in obtaining records, including meeting minutes and consent agendas.

The Town was without a Clerk/Treasurer from about September or October 2007, through April 2008 when the new clerk took over. During the interim period, the duties of taking minutes apparently fell to one of the now former office employees.

OSAI interviewed one of the former employees who stated that she had taken minutes, although she may have “missed a month or two.”

OSAI interviewed the current Clerk/Treasurer who stated when she took over in late April 2008; she found piles of handwritten minutes, undated notes, undated agendas and undated department reports. She sorts the documents and puts them together, when she can, and when she cannot; she “puts them back in the pile.”

The Clerk/Treasurer stated she was told by the Board of Trustees to keep up with the current minutes and catch up on the past minutes as best she can. When OSAI asked if she was able to do that she stated, “no... no way, not on 30 hours a month.”



She stated one of the problems she encountered upon assuming the duties of Clerk/Treasurer was that records were in disarray. She stated that she has had difficulty organizing those records because the records were either not dated or just not there.

OSAI asked if the Clerk/Treasurer was aware of any type of book containing the typed and approved meeting minutes. She stated she was not aware of any such book.

**The Town's books and records may not be auditable for the current fiscal year.**

**11 O.S. § 17-105A** states:

The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more to its general fund during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial statement audit to be conducted in accordance with auditing standards generally accepted in the United States of America and "Government Auditing Standards" as issued by the Comptroller General of the United States. Such audit shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 3022 and 3023 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

During the course of fieldwork, OSAI found that it appeared the Town has not encumbered funds against appropriations, purchase order documentation is inadequate and the Town was unable to locate many of the records needed to perform the audit.

OSAI concluded the audit fieldwork in June 2008, nearing the end of the 2007-2008 fiscal year, which ends on June 30, 2008. OSAI contacted the Town's independent auditor concerning the Town's records.

The independent auditor also expressed a concern over the deterioration of the Town's books and records and stated that as it stands now, the Town may need to hire an independent consultant to bring the Town's records up to an auditable condition before the financial statement audit can be performed.

**RECOMMENDATIONS** OSAI recommends the Town take actions to bring its books and records up to an auditable condition, consulting with and/or contracting with an outside independent financial consultant, if necessary. OSAI also recommends the Town develop and utilize procedures to encumber against an appropriation ledger as required by law.

OSAI recommends the Town Board, and employees where applicable, contact the Oklahoma Municipal League to seek and attend training to familiarize themselves with their statutorily required duties concerning the approval and expenditure of funds and begin performing such duties.

OSAI recommends the appropriate legal authority review these findings to determine what action, if any, may be required.

**OBJECTIVE**

**Determine if there has been a misappropriation of public funds.**

**FINDINGS**

- **Cash, in the amount of \$317.70, cannot be traced to deposits.**
- **One deposit was short \$3.00; there was an error in the cash/check composition.**
- **One check, in the amount of \$25.00, cannot be traced to a deposit.**
- **One receipt, including all corresponding copies, is missing.**
- **It appears not all 'on-hand' funds are being deposited in a timely manner.**
- **Posting reports and account histories are conflicting.**

**Cash, in the amount of \$317.70, cannot be traced to deposits.**

Residents of Maysville pay their water and sewer bills to the Maysville Municipal Authority (MMA). Payments made to MMA are collected at the Maysville Town Hall.

MMA water bills are a two-part bill mailed to customers. When a customer makes their monthly water and sewer payment, one portion of the bill is retained by the Town and serves as a receipt.

The payments are then entered into a computer system by the MMA clerk. Once the payments are entered, a "posting report" is generated. The posting report reflects the customer's account number, name, amount collected and if the collection was in the form of cash or check.

OSAI compared the actual billing stubs to the posting reports for a three-month period from July 2006 through September 2006. One billing stub was found during the period which was not reflected on a corresponding posting report.

The billing stub reflected the payment of \$50.00 and was stamped "PAID JUL 19 2006". The payment stub indicates the payment was made in cash. The payment is not reflected in the corresponding posting report. It appears the funds were not deposited and are missing.

A posting report dated March 5, 2007 reflected the collection of \$4,396.28. The composition of the total collection amount was \$796.08 cash and \$3,600.20 checks.

On March 6, 2007, three (3) deposits were made. Two of the three deposits corresponded to posting reports created on March 5 and March 6, 2007. The third deposit reflected a total deposit amount of \$4,221.28, with a cash deposit amount of \$621.08. The deposit was short \$175.00 cash, from the collection amount reflected in the posting report. Based on the records provided, it appears \$175.00 in cash was not deposited and is missing.

Any other use of the funds other than depositing them into the proper depository accounts appears to violate **21 O.S. § 341** and **21 O.S. § 1451**, which state, respectively:

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

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

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the state, city, town, district or county, or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than twenty (20) years and, in addition thereto, the person shall be disqualified to hold office in this state, and the court shall issue an order of such forfeiture, and should appeal be taken from the judgment of the court, the defendant may, in the discretion of the court, stand suspended from such office until such cause is finally determined.

**21 O.S. § 1451**

A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds "held in trust" for any purpose;

\* \* \*

4. Where the property is to be used for a public or benevolent purpose[.]

On September 21, 2006, a posting report reflected the collection of cash in the amount of \$42.70. A corresponding deposit was not found.

In addition to the posting reports reflecting payments received for water and sewer bills, MMA also collects funds for water deposits, meter reconnection fees, and insufficient check fees. These collections are receipted separately from the posting reports.

On August 23, 2006, three (3) receipts, #8973, #8974 and #8975, were written and reflected the total collection of \$75.00. Receipts #8973 and #8974 each reflected the collection of \$25.00 in the form of checks. OSAI traced the collections from receipts #8973 and #8975 to a deposit made on August 28, 2006.

Receipt #8974 reflecting the collection of \$25.00 in cash, could not be traced to a corresponding deposit. Although OSAI was able to identify corresponding deposits for the previous and subsequent receipts, a corresponding deposit was not found for this receipt.

Receipt #347821, dated January 12, 2007, reflects the collection of \$25.00 cash. Although OSAI was able to identify corresponding deposits for the previous and subsequent receipts, a corresponding deposit was not found for this receipt.

**One deposit was short \$3.00; there was an error in the cash/check composition.**

A posting report dated August 6, 2007 reflected the collection of \$4,128.19 with a composition of \$375.08 cash and \$3,753.11 checks. On August 7, 2007, a deposit in the total amount of \$4,125.19 was made to the MMA revenue account.

The deposit ticket reflected the depositing of \$309.85 cash and \$3,815.34 checks. Based on the posting report, the deposit composition should have been \$375.08 cash and \$3,753.11 checks. The deposit was short \$65.23 cash and long \$62.23 checks. Overall the deposit was short \$3.00.

**One check, in the amount of \$25.00, cannot be traced to a deposit.**

Receipt #347817, dated January 2, 2007, reflected the collection of \$25.00 by check and included a corresponding check number. Although

OSAI was able to identify deposits for the previous and subsequent receipts, a corresponding deposit was not found for this receipt.

**One receipt, including all corresponding copies, is missing.**

During the month of August 2007, MMA used a pre-numbered receipt book containing four (4) receipts per page with three (3) copies per receipt, an original receipt and two carbon copy receipts.

Receipt #347211 was dated August 29, 2007. Receipt #347212, including the original and both copies, was missing from the receipt book.

**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.

**It appears not all 'on-hand' funds are being deposited in a timely manner.**

A series of receipts, #347267 through 347271, were issued on November 29 and 30, 2007. The next deposit made subsequent to issuing these receipts, was a deposit made on December 3, 2007. Although all five (5) receipts were issued in latter November, only the funds from three of the receipts, #347269, #347270 and #347271, were included in the December 3, 2007 deposit.

Subsequent to the December 3, 2007 deposit, two more deposits were made on December 6, 2007 and December 10, 2007. These deposits included the funds collected from receipts #347267 and #347268.

The failure to deposit all public funds daily appears to violate **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[.]

**Posting reports and account histories are conflicting.**

On February 27, 2007, a deposit was made in the amount of \$587.33 including \$317.73 cash and \$269.60 checks. The corresponding posting report, batch report #1606, reflected the collection of seven (7) payments totaling \$433.33, all in cash.

In addition to the posting report, the deposit also appeared to include \$100.00 in collections that were receipted. The posting report and the receipt collections totaled \$533.33, while the deposit amount reflected \$587.33, a variance of \$54.00.

Receipt #347840, dated February 27, 2007, indicated the receipt of \$25.00 for a reconnection fee. The payment is reflected as being by check #1791. OSAI obtained an account history for this account and found the account history also reflected the payment of a past due water bill in the amount of \$54.00. The account history also reflects this payment was made by check number #1791.

The deposit slip reflects a deposit of \$79.00 for the customer associated with this account (\$54.00 delinquent water bill and \$25.00 reconnection fee) although the \$54.00 payment is not reflected on the posting report.

Although the posting report reflects the collection of \$433.00, OSAI obtained account histories for the accounts reflected in the posting reports and found conflicts between the posting report and the account histories.

The posting report reflects a payment, in cash, of \$77.35 for account #949. Receipt #347837, dated February 26, 2007, reflects the collection of \$25.00, by check, for the same account. The receipt indicates the check number received was #797.

OSAI obtained an account history for this account and found a corresponding water payment entry in the amount of \$77.35 and reflecting the payment was by check #797. The deposit ticket indicates the deposit of \$102.35 (\$77.35 water and \$25.00 reconnect fee) by check.

Similarly, the posting report reflects the collection of \$63.25 in cash and credited to account #796. OSAI obtained an account history for this account which reflected a payment of \$63.25 by check #1364. Receipt #347839, dated February 26, 2007, also reflected the collection of \$25.00, by check #1364.

On May 27, 2008, OSAI asked for a reprinted copy of posting report #1606. The reprinted report reflects collection of \$487.33 (\$292.73 cash; \$194.60 checks) and includes eight (8) payments.

Although it appears the deposit amount is correct, it appears the computer software allows for the posting reports and/or account histories to be manipulated independent of each other. In this case, it appears the posting report is inaccurate.

The posting reports serve as a supporting document to reconcile the amounts collected and the amounts deposited. The apparent ability to manipulate the posting report independent of the account histories

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represents a significant risk to the ability to detect and hinder the misappropriation of funds collected.

**RECOMMENDATIONS** OSAI recommends all funds be receipted and deposited in accordance with state statutes. Further, OSAI recommends the procedures be implemented to ensure the posting reports and payments posted to customers accounts are reconciled and agree with cash and checks deposited.

OSAI recommends the proper authorities review these findings to determine what action, if any, may be required.

**OBJECTIVE** Determine if the MMA Board authorized the drilling of one or more water wells and determine if the expenditures related to the water wells were approved.

**FINDINGS**

- **Meeting minutes and associated meeting documents, such as consent agendas are not maintained as required by state law.**
- **Financial records, such as purchase orders and related invoices and receipts, are not maintained as required by state law.**

Wiley Post Memorial Lake, located about 3 miles north of Maysville, is the water source for the residents of Maysville. The concern, as expressed by the Mayor during a pre-audit interview, was two-fold:

1. Did the Board authorize drilling one water well or more than one water well?
2. Did the Board approve the expenditures related to drilling the water wells?

**Did the Board approve drilling more than one well?**

Resolution 5-2006, dated August 14, 2006, signed by the MMA Chairman and reflecting "*passed and approved by the Board of Trustees*", states, in part:

*WHEREAS, an emergency exists by reason of the failure of existing water supply caused by the extreme drought weather as declared by the Town of Maysville in Resolution 06-2006, and the emergency conditions have worsened; and*

*WHEREAS, the Town is faced with the urgency and necessity of drilling test water well(s) immediately to help remedy the loss of water supply from the surface water; and*

*WHEREAS, the town needs engineering expertise to fully design the water well project and to negotiate a contract with a water well drilling company to drill test well(s);*

OSAI asked for the approved meeting minutes for the Maysville Municipal Authority (MMA) for the period July 1, 2006 through December 31, 2007. Town officials were unable to locate any printed and approved minutes. **25 O.S. §312A** states:

The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.

The Town's Court Clerk found a computer diskette containing minutes for the MMA meetings for the period July 1, 2006 through April 2007. OSAI asked the Court Clerk to print out the minutes from the computer diskette.

The MMA minutes provided by the Court Clerk are unsigned, unapproved minutes. Additionally, the copies provided do not include associated documents such as contracts and consent agendas. OSAI used the minutes provided, noting that they are unsigned and unapproved.

From the MMA minutes provided, OSAI noted the following significant events concerning the water emergency and drilling of the water wells:

- July 17, 2006: Water department report states "*[W]e need to drill a well we've dropped 4 inches since Saturday at this rate we will be out of water*". The Board voted and approved a ban on all outdoor watering.
- July 25, 2006: The Board voted on and approved Resolution #3-2006 declaring an emergency due to the "*failure of the existing water supply*" and authorizing a request for financial assistance. The Board voted and approved hiring NRS Consulting to provide engineering services on the proposed water well/water treatment project. Board also voted and approved hiring Millie Vance Incorporated to prepare grant and/or loan applications for funding the proposed water well/water treatment project. The Board voted and approved to apply with the USDA Emergency Community Assistance Water Grants for a \$500,000.00 rural development grant.
- August 14, 2006: The Board, "*in reference to Declaration of Emergency due to drought*" authorized the waiving of competitive bidding requirements, authorized NRS Consulting Engineers to design "water well/wells". Authorized NRS Consulting Engineers to "negotiate contract with the well drilling company".
- April 30, 2007, public hearing ECWAG Water Project: "*To alleviate the water supply shortage, the first plan was to try to drill water wells to produce water for municipal use but was not successful after about 5 attempts*".



Based on the minutes provided, on August 14, 2006, the Board voted on and approved Resolution 5-2006. OSAI obtained a copy of Resolution 5-2006 which states, in part:

WHEREAS, the Town is faced with the urgency and necessity of drilling test water well(s) immediately to help remedy the loss of water supply from the surface water source;

OSAI obtained a copy of Resolution 4-2006, signed by the former MMA Chairman. Resolution 4-2006 states, in part:

WHEREAS, the Town is faced with the urgency and necessity of drilling test water well(s) [.]

Resolutions 5-2006 and 4-2006 were signed by the former Mayor and Chairman of MMA. OSAI interviewed the former Mayor who stated that there were discussions, and it was the intention of the Board, to drill more than one well.

From the MMA minutes provided, the Board, at a Special Meeting held August 14, 2006, voted and approved to authorize NRS Consulting Engineers to “*design water well/wells*”.

The engineer from NRS who was involved in the project no longer works for NRS. OSAI contacted the former NRS employee and he declined to speak with OSAI. We contacted NRS Engineering Consultants who did not return our calls.

OSAI interviewed a representative with the USDA who was familiar with the grant, as well as the grant consultant for the USDA grant. Both stated there were discussions in open meetings concerning the drilling of more than one well.

**Did the Board approve the expenditures for the water wells?**

As previously noted in this section, no records could be found as to MMA minutes. OSAI asked for purchase orders and consent agendas for MMA relating to the drilling of the water wells. No records could be found.

**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.

A letter, dated May 21, 2008, had been sent from USDA to the MMA Chairman relating to the disbursement of funds. Attached to the letter were documents, including purchase orders that were used in support of

the USDA grant to pay for expenses related to both the water wells and the installation of a booster pump.

OSAI relied solely on the copies of purchase orders attached to the May 21, 2008 letter. Based on the copies of the purchase orders, it appears MMA expended the following funds:

- \$74,600.74 for costs related to the water wells.
- \$76,353.00 for costs related to a booster pump.
- \$23,670.00 for costs related to an on-going floating intake project.
- \$2,673.79 uncategorized costs.

From the copies of the purchase orders, OSAI noted the following exceptions:

- Two (2) purchase orders, totaling \$10,906.25, had no approval signatures.
- Five (5) purchase orders, totaling \$7,635.94, had no approval dates.

OSAI interviewed the USDA Regional Manager concerning the \$496,900.00 grant, addressed elsewhere in this report, and was advised that a portion of this grant was to repay to the Maysville Municipal Authority, the costs associated with drilling the water wells.

Fourteen (14) of the included purchase orders reflected expenditures related to the drilling of the water wells totaling \$74,600.74. Of that amount, it appears all but \$1,555.94 appears to have been reimbursed to MMA from the USDA grant.

While examining the purchase order copies, we noted the following procedural exceptions:

- Although each purchase order included a certification of encumbrance of funds, none of the purchases orders contained an encumbrance date or signature.
- Although each purchase order included a "payment record" section to record the warrant number and amount, none of the purchase orders contained the requisite information.

Nineteen (19) of the twenty one (21) purchase order copies reflect an approval signature that appears to be a signature stamp.

The MMA Board approves expenditures by means of a consent agenda. Without approved meeting minutes and without approved consent agendas OSAI is unable to make any further determinations concerning the approval of the water well related expenditures.

**RECOMMENDATION**

OSAI recommends the MMA Board adopt records retention policies to ensure the required public records and documents are maintained and available in accordance with State law.

<b>OBJECTIVE</b>	<b>Determine if the Town (MMA) has received all or part of a USDA Grant.</b>
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**FINDINGS**                      None

Prior to OSAI beginning fieldwork, OSAI met with the Maysville Mayor who asked that OSAI determine if any proceeds from a \$496,900.00 USDA grant had been received.

OSAI contacted an area representative for USDA who was familiar with the grant application and purpose. The representative, on May 14, 2008, advised there had been no disbursements from the grant to date. Further, according to the area representative, proceeds were expected to be disbursed in the following 8-10 days.

On May 21, 2008, USDA sent a letter to the Maysville Municipal Authority (MMA) advising that \$184,000.00 had been disbursed from the grant and had been deposited in a construction account.

**RECOMMENDATION**            No recommendation needed.

**DISCLAIMER**                    Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the Town Board of Trustees and 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 and such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that the Town of Maysville or any of the individuals named in this report or acting on behalf of the Town of Maysville have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the Town of Maysville's policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.



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