



# Town of Oakland Special Audit Report October 1, 2003 through March 31, 2005

**JEFF A. McMAHAN, CFE**

OKLAHOMA OFFICE OF THE  
STATE AUDITOR & INSPECTOR

## Why the audit was performed

The District Attorney requested  
the audit pursuant to  
**74 O.S. 2001 § 212(H).**

## Audit Summary:

- ✓ The Town of Oakland did not properly appoint the Cemetery Board of Trustees. **Pg 7**
- ✓ The Cemetery Board hired and paid relatives a total of \$81,473.00 for salaries, bonuses, mowing, and miscellaneous expenses, which appears to be a violation of state law. **Pgs 7, 8**
- ✓ The Cemetery Board did not issue IRS Form 1099-MISC to individuals receiving payment for services in the amounts of \$600.00 or more. **Pg 9**
- ✓ Lawn mower and weed eater parts and supplies for personal equipment was purchased under the name of the Oakland Cemetery Association apparently to avoid payment of sales tax. **Pg 9**
- ✓ Eight (8) receipts totaling \$1,151.00 could not be verified as being deposited. Also, monies received were not deposited with the municipal treasurer as required by state law and a Cemetery Care Fund was not established as required by state law. **Pg 10**
- ✓ A lawn mower and trailer costing \$6,513.70 was purchased by the Cemetery Board for the Cemetery caretaker, who reimbursed the Board by not accepting his salary, which appears to be a violation of the **Constitution of Oklahoma** and state law. **Pg 11**
- ✓ The new Cemetery Board conducted meetings without filing notice with the Town clerk or posting an agenda as required by the Open Meeting Act. **Pg 11**
- ✓ The old Cemetery Board met and conducted business prior to being appointed by the Town Trustees, did not file notice of meetings with the Town clerk, and did not post an agenda as required by the Open Meeting Act. **Pg 13**

**TOWN OF OAKLAND**

**MARSHALL COUNTY**

**SPECIAL AUDIT REPORT**

**OCTOBER 1, 2003 THROUGH MARCH 31, 2005**



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

October 26, 2005

Ms. Paule' Haggerty, Asst. Dist, Attorney  
For Mitchell Sperry, District Attorney – District No. 20  
Marshall County Courthouse  
Madill, Oklahoma 73446

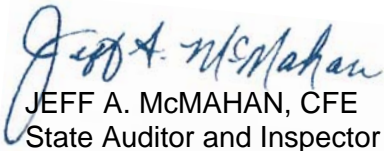
Transmitted herewith is the Special Audit Report of the Town of Oakland, Marshall County, Oklahoma. We performed our special audit in accordance with the requirements of 74 O.S.2001, § 212(H).

A report of this type is critical in nature; however, we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the Town.

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 insure 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,

  
JEFF A. McMAHAN, CFE  
State Auditor and Inspector

**table of contents**

	<b>page</b>
BOARD OF TRUSTEES .....	4
STATE AUDITOR AND INSPECTOR'S REPORT .....	5
INTRODUCTION .....	6
CONCERNS, FINDINGS AND RECOMMENDATIONS.....	7

**index of specific concerns**

The following concerns are presented in their entirety in italics as they were communicated to us?

<b>I.</b>	<b>CONCERN:</b> <i>Possible irregularities in the cemetery trust expenditures</i> .....	7
<b>II.</b>	<b>CONCERN:</b> <i>Possible irregularities in the cemetery trust revenues</i> .....	10
<b>III.</b>	<b>CONCERN:</b> <i>Possible irregularities in cemetery trust equipment</i> .....	11
<b>IV.</b>	<b>CONCERN:</b> <i>Possible violation of the Open Meeting Act</i> .....	11

**TOWN OFFICIALS**

Orin Van Winkle ..... October 1, 2003 through March 31, 2005  
Roy Scott ..... October 1, 2003 through March 31, 2005  
Roxanne Hill..... October 1, 2003 through March 31, 2005  
Bill Wyatt ..... October 1, 2003 until April 15, 2005  
Jim Denny ..... January 5, 2004 until May 2, 2005  
Debbie Adams ..... October 1, 2003 until December 8, 2003

**CLERK/TREASURER**

Linda Cox..... October 1, 2003 until September 7, 2004  
Lisa Kennedy ..... October 4, 2004 through March 31, 2005

**CURRENT  
BOARD OF TRUSTEES  
AS OF OCTOBER 26, 2005**

Orin Van Winkle ..... Mayor  
Roy Scott ..... Trustee  
Roxanne Hill..... Trustee  
Sean Oliver ..... Trustee  
John Moss..... Trustee  
Lisa Kennedy ..... Clerk/Treasurer

**CEMETERY BOARD**

Joanne Wiggins ..... President  
March 1, 1999 until April 5, 2005  
Leanna Denny..... Vice-President  
March 1, 1999 until April 5, 2005  
Susan Stuckey ..... Treasurer  
March 1, 1999 until April 5, 2005  
Stacie Salyer..... Secretary  
March 1, 1999 until April 5, 2005  
Gary Carter ..... Caretaker

**CURRENT  
CEMETERY BOARD  
AS OF OCTOBER 26, 2005**

Jeanne Payne ..... President  
Kay Idleman ..... Vice-President  
Mary Moore..... Secretary  
Pam Hallmark ..... Treasurer  
Sean Oliver ..... Trustee



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

Mr. Orin Van Winkle, Mayor  
Town of Oakland  
P.O. Box 541  
Oakland Oklahoma 73446-0541

Dear Mr. Van Winkle:

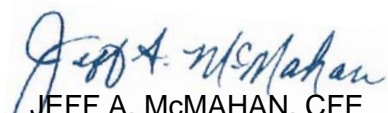
Pursuant to the District Attorney's request and in accordance with the requirements of **74 O.S. 2001, § 212(H)**, we performed a special audit with respect to the Town of Oakland, Marshall County, for the period October 1, 2003 through March 31, 2005.

The objectives of our special audit primarily included, but were not limited to, the areas noted in the index of specific concerns and are presented in their entirety in italics as they were communicated to us. Our findings and recommendations related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Town of Oakland for the period October 1, 2003 through March 31, 2005. 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 taken as a whole.

This report is intended solely for the information and use of the District Attorney, Town Board of Trustees, Cemetery Board of Trustees and Administration of the Town 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. 2001, § 24A.1 et seq.**), and shall be open to any person for inspection and copying.

Sincerely,

  
JEFF A. McMAHAN, CFE  
State Auditor and Inspector

October 10, 2005

## INTRODUCTION

The Town of Oakland, Oklahoma is organized under the statutory town board of trustees form of government, as outlined in **11 O.S. 2001, § 12-101, *et seq.***

**11 O.S. 2001, § 12-101, *et seq.*** 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.”

Under **11 O.S. 2001, § 26-106**, the Town Board of Trustees may provide, by ordinance, the creation and appointment of a Board of Cemetery Trustees for cemeteries owned by the municipality. The Board of Cemetery Trustees shall consist of three (3) members. The term of each member shall be six (6) years, except that when the Board is first appointed, one member shall serve a term of two (2) years, one member shall serve a term of four (4) years, and one member shall serve a term of six (6) years.

The Oakland Town Board of Trustees appointed five (5) members to the Cemetery Board.

A private, independent audit firm audits the Town. The State Auditor and Inspector conducted a special audit of the records of the Town of Oakland, primarily those records relating to the District Attorney's concerns. The results of the special audit are in the following report.

**CONCERNS, FINDINGS AND RECOMMENDATIONS**

On March 1, 1999 the Town of Oakland Board of Trustees appointed Joann Wiggins, Leanna Denny, Susan Stuckey, and Stacie Salyer as the new cemetery board. The March 19, 1999 Oakland Cemetery Board minutes reflect the election of the following officers: Joann Wiggins – President, Leanna Denny – Vice-president, Susan Stuckey – Treasurer, and Stacie Salyer – Secretary. Also, we noted Cemetery Board minutes dated February 6, 1999 prior to the Town Trustees appointing the Cemetery Board members. Although the minutes do not reflect the appointment of Gary Carter as caretaker, during conversation with Joann Wiggins, former Board president, she stated that he was hired as the cemetery caretaker.

At the Oakland Public Works Authority meeting on March 7, 2005 under “public speaking regarding the Cemetery Association”, the minutes reflect Roxanne Hill, Town Trustee, stated:

“...that Gary Carter was appointed as caretaker and he appointed the five member panel.”

On April 5, 2005 the Oakland Board of Trustees appointed five (5) new members to the Oakland Cemetery Association Board, which included, Mary Moore, Pam Hallmark, Sean Oliver, Kenny Shaffer, and Jeanne Payne.

The Oakland Cemeteries are owned by the Town of Oakland, with the exception of approximately a half lot located in Madill city limits; however, the deed is in the name of the Oakland Cemetery Association. Based on this information, it appears the Cemetery Board should have been created under **11 O.S. 2001, § 26-106**, which states:

“Where a cemetery is owned by a municipality, the governing body may provide by ordinance for the creation and appointment of a board of cemetery trustees. The board of cemetery trustees shall consist of three (3) members. The term of each member shall be six (6) years, except that when the board is first appointed, one member shall serve a term of two (2) years, one member shall serve a term of four (4) years, and one member shall serve a term of six (6) years.”

**RECOMMENDATION:** We recommend the Town Board of Trustees follow state statutes for the appointment of Trustees to the Cemetery Board.

**I. CONCERN:** *Possible irregularities in the Cemetery Trust expenditures.*

**FINDING NO. 1:** We examined the Oakland Cemetery Association expenditures from October 1, 2003 through March 31, 2005. The Cemetery Board did not maintain or prepare claims, there were no invoices to support the expenditures, and we were unable to locate minutes to document that the Board approved the expenditures. We prepared a list of expenditures from the check stubs and cancelled checks included in the bank statements. The following schedule reflects the total expenditures by vendor and purpose:

ISSUED TO	AMOUNT	SALARY	BONUS	MOWING	SUPPLIES
Gary Carter	\$6,350.00	\$4,000.00	\$450.00	\$1,900.00	
Roxanne Hill	6,050.00			6,050.00	
Brandon Burchfield	350.00			350.00	
Town of Oakland	200.00			200.00	
Minor Printing	79.75				79.75
<b>Total</b>	<b>\$13,029.75</b>	<b>\$4,000.00</b>	<b>\$450.00</b>	<b>\$8,500.00</b>	<b>\$79.75</b>



We noted that Gary Carter, Cemetery caretaker, is the father of Stacie Salyer, Cemetery Trustee and Roxanne Hill is a Town of Oakland Trustee and the daughter of Joann Wiggins, Cemetery Trustee. During telephone conversation with Joann Wiggins and Stacie Salyer, former Cemetery Trustees, they stated that Gary Carter was hired by the Cemetery Board on March 19, 1999 as the Cemetery caretaker, although, the minutes for the March 19, 1999 meeting do not reflect the hiring of a caretaker.

Also, we reviewed the expenditures from February 17, 1999 through September 30, 2003 noting the following payments to a Board member, father of a Board member, daughter of a board member, and husbands of Board members for salary and mowing/maintenance of the Cemetery.

ISSUED TO	AMOUNT	SALARY	BONUS	MOWING	Misc.
Gary Carter	\$29,050.00	\$26,500.00	\$1,300.00	\$	\$1,250.00
Roxanne Hill	24,602.00			24,602.00	
Glenn Wiggins	4,946.00			4,946.00	
Joann Wiggins	400.00			400.00	
Duane Salyer	10,075.00			10,075.00	
Total	\$69,073.00	\$26,500.00	\$1,300.00	\$40,023.00	\$1,250.00

Note: The salary amount for Gary Carter includes \$6,700.00 that was applied to the purchase of a lawn mower and trailer.

Based on the information, it appears the Cemetery Board hired and paid relatives within the third degree and a Board member for mowing/maintenance of the Cemetery, which is a violation of **11 O.S. 2001, § 8-106** and **Article X, § 11** of the **Constitution of Oklahoma**, cited respectively:

“No elected or appointed official or other authority of the municipal government shall appoint or elect any person related by affinity or consanguinity within the third degree to any governing body member or to himself or, in the case of a plural authority, to any one of its members to any office or position of profit in the municipal government. The provisions of this section shall not prohibit an officer or employee already in the service of the municipality from continuing in such service or from promotion therein. A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the governing body shall not receive compensation for service in any municipal office or position other than his elected office.”

“The receiving, directly or indirectly, by any officer of the State, or of any county, city, or town, or member or officer of the Legislature, 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.”

Also, the receipt of money for services provided by the Town Trustee from the Cemetery Board appears to be a violation of the Trustee’s oath of office, which states in part:

“...I will not knowingly receive, directly or indirectly any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office other than compensation allowed by law...”

We found no documentation that the Board approved the bonus payment and there was no documentation to support the miscellaneous payments. Further, we noted that the former Cemetery Board paid \$800.00 per mowing, to a Board member’s daughter, for mowing and weed eating the Cemetery and the current Board is paying \$575.00 for the same service.

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary.

**FINDING NO. 2:** Internal Revenue Service (IRS) regulations require Form 1099-MISC to be issued to individuals for payment of services performed for amounts of \$600.00 or more. During conversation with Stacie Salyer, former Board secretary, she stated that they did not issue IRS

Form 1099 for the caretaker's service or mowing/maintenance of the Cemetery. We noted payment for services exceeding \$600.00 for the following individuals. The schedule reflects the amount, for calendar year, received by the individual.

YEAR	GARY CARTER	ROXANNE HILL	GLENN WIGGINS	DUANE SALYER
2004	\$3,900.00	\$5,900.00	\$0	\$0
2003	6,450.00	7,600.00	0	0
2002	5,450.00	9,250.00	0	0
2001	6,700.00	4,100.00	0	4,000.00
2000	6,600.00	2,950.00	0	5,955.00
1999	6,300.00	852.00	4,446.00	0

**RECOMMENDATION:** We recommend the Cemetery Board submit IRS Form 1099-MISC for all years that individuals received \$600.00 or more for the payment of services performed.

**FINDING NO. 3:** We received invoices for purchases at a local parts store from Mary Moore, current Cemetery Board secretary. The purchases included the following items:

DATE	RECEIPT NUMBER	ITEM PURCHASED	AMOUNT
09/08/04	50914	Lawnmower deck	\$292.16
07/20/04	47239	Blade nut (3)	2.25
06/25/04	45436	Lawnmower blades and trimmer line	65.34
06/08/04	44015	Stihl trimmer/weed eater and oil	368.94
09/26/03	29008	Murray belt	21.30
06/24/03	23024	Belt	10.69
05/30/03	21389	Weed eater string	25.95
05/19/03	20735	Belt	10.69
05/13/03	20426	Lawnmower blades	40.68
04/16/03	18746	Tire	33.74

On September 8, 2004, the Town of Oakland issued check no. 4070, in the amount of \$446.03, for the payment of the Stihl trimmer/weed eater. The Town clerk/treasurer stated that they had the trimmer/weed eater in their possession. The invoice for the deck reflects cash payment and the other invoices reflect the items were charged to the Oakland Cemetery Association. During our review of expenditures, the last payment issued to the parts store was check no. 1330 on December 9, 2002.

The Cemetery Board did not have equipment for the maintenance of the Cemetery grounds; therefore, they hired individuals to do the mowing and weed eating at the Cemetery. The items purchased appear to be parts and supplies for a lawnmower and weed eater that did not belong to the Cemetery Board. We were unable to determine if the Cemetery Board paid for the items from money collected and not deposited or paid by an individual using their personal funds.

Based on the information, it appears the items were for personal use and purchased under the Oakland Cemetery Association account to avoid payment of sales tax.

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary.

**II. CONCERN:** *Possible irregularities in Cemetery Trust revenues.*

**FINDING:** The revenue received by the Cemetery Board is generated from the sale of burial plots, donations, and interest earned. The Cemetery Board did not issue receipts for all monies received; therefore, we were unable to determine if all monies collected were deposited. We obtained the only receipt book that was available and verified the amount per receipt had been deposited. The receipts were not pre-numbered, some receipts had been torn-out of the book, and they were not marked as the type of payment received (check, cash, etc.). We reviewed receipts from May 3, 1999 to March 5, 2005, noting eight (8) receipts, totaling \$1,151.00 that was not deposited. All receipts reviewed reflect Gary Carter, Cemetery caretaker, had received the money.

Based on the information, monies received that were not deposited appears to be a violation of **21 O.S. Supp. 2002, § 341**, which states in part:

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

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

Also, all monies received by the Cemetery Board shall be deposited with the municipal treasury as required by **11 O.S. 2001, § 26-108**, which states in part:

“All monies received by the board of cemetery trustees from the sale of lots or from interments or from any other source shall be paid daily to the municipal treasurer, who shall deposit the same in the municipal treasury.”

Further, the Town has not established a Cemetery Care Fund as required by **11 O.S. 2001, § 26-109**, which states:

“In all municipally owned cemeteries where lots are sold or charges made for interments, not less than twelve and one-half percent (12.5%) of all monies received from the sale of lots and interments shall be segregated and set aside as a permanent fund to be known as the "Cemetery Care Fund". The Cemetery Care Fund principal shall be expended for purchasing lands for cemeteries and for making capital improvements as defined in Section [17-110](#) of this title, if necessary. The balance of the fund may be invested in the manner provided by law for investment of municipal funds. The interest from the investments shall be used for the same purposes as the principal or in improving, caring for, and embellishing the lots, walks, drives, parks, and other necessary improvements on such cemeteries.”

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary. Also, we recommend the Cemetery Board issue pre-numbered receipts, in sequential order, reflecting the individual’s name, amount, type of payment (cash,

check, money order, etc.), and date received for all monies received and deposit the money with the Town treasurer on a daily basis as required by statute,

**III. CONCERN:** *Possible irregularities in Cemetery Trust equipment.*

**FINDING:** On April 30, 1999, the Cemetery Board issued a check to Durant Rental, in the amount of \$6,313.70, for the purchase of a Dixon lawnmower, and on July 3, 1999, a check in the amount of \$200.00, was issued to Durant Rental for the purchase of a trailer, for a total cost of \$6,513.70. These items were not in the possession of the Cemetery Board. During conversation with Joann Wiggins, Cemetery Board president, stated that they could not get anyone to mow the Cemetery so they bought the lawnmower for Gary Carter, caretaker, and he paid for it by not accepting his \$500.00 per month salary until it was paid off and Stacie Salyer, Cemetery Board secretary stated that the Cemetery Board bought and paid for the lawnmower and Gary Carter, cemetery caretaker, and he paid them back by not accepting his salary until it was paid for.

We reviewed the check stubs and bank statement to determine if the Cemetery Board was reimbursed for the purchase of the Dixon lawnmower and trailer. We noted that no checks for salary were issued to Gary Carter, caretaker, from May 1999 through May 2000 and in June 2000 he received partial payment of \$300.00 for a total of \$6,700.00 in salary not received. Also, due to the lack of documentation, we were unable to determine if sales tax was paid on these purchases.

We found no Board minutes that approved the purchase of the lawnmower and trailer for Gary Carter, Cemetery caretaker. Based on the information, the purchase of the lawnmower and trailer for an individual appears to be a violation of **Article 10 § 17** of the **Constitution of Oklahoma** and **21 O.S. 2001, § 341**.

**Article 10 § 17** of the **Constitution of Oklahoma:**

"The Legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to any corporation, association, or individual."

Also, a check in the amount of \$85.80 was issued for the purchase of a lawnmower on August 2, 2000, which the current Board did not have in its possession.

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary.

**IV. CONCERN:** *Possible violation in the Open Meeting Act.*

**FINDING NO. 1:** We obtained the minutes for the new Cemetery Board, appointed April 4, 2005, to determine if the Board followed the requirements of the Open Meeting Act. We found no agendas for the Board meetings of April 13, April 21, May 27, May 31, and June 6, 2005. Also, the Cemetery Board did not file notice of the date, time, and place of the regularly scheduled meetings with the Town clerk.

The Cemetery Board conducted meetings without filing the proper notice with the Town clerk and did not post an agenda for the said meetings. These actions appear to be a violation of **25 O.S. 2001, § 311**, which states in part:

"A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year.

\* \* \*

4. All municipal public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located.

\* \* \*

7. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of said register.

8. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to the Secretary of State or county clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change.

9. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, all public bodies shall, at least twenty-four (24) hours prior to such meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting, such twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma; provided, however, the posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. 'New business', as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.

10. In the event any meeting is to be continued or reconvened, public notice of such action, including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

11. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to said meetings. Such public notice of date, time and place shall be given in writing, in person or by telephonic means to the Secretary of State or to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of this section. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station, and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars (\$18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting. Only matters appearing on the posted agenda may be considered at said special meeting. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. Twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

12. In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.<sup>29</sup>

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary. We also recommend the Town Board of Trustees and the Cemetery Board attend training.

**FINDING NO. 2:** We obtained the only minutes available, February 6, and March 19, 1999, for the old Cemetery Board. The Town Board of Trustees appointed the old Cemetery Board on March 1, 1999. Based on the information, it appears the "Cemetery Board" met and conducted business prior to being appointed by the Town Trustees. Also, we found no documentation that the Cemetery Board filed notice of the date, time, and place of the regularly scheduled meetings with the Town clerk, as well as agendas for the meetings.

During conversations with Joann Wiggins, former president, and Stacie Salyer, former secretary, stated they really did not have meetings, but talked with each other on the telephone and that she thought they only had one (1) meeting, respectively.

The Cemetery Board met and conducted business prior to being appointed by the Town Trustees, did not file the proper notice with the Town clerk for the regularly scheduled meetings and did not post an agenda for the said meetings, which appears to be a violation of **25 O.S. 2001, § 311** as previously cited.

**RECOMMENDATION:** We recommend the District Attorney review this finding to determine if further action is necessary.

\* \* \*

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the citizens 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 or any of the individuals named in this report or acting on behalf of the Town have violated any statutory requirement 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 Town 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.