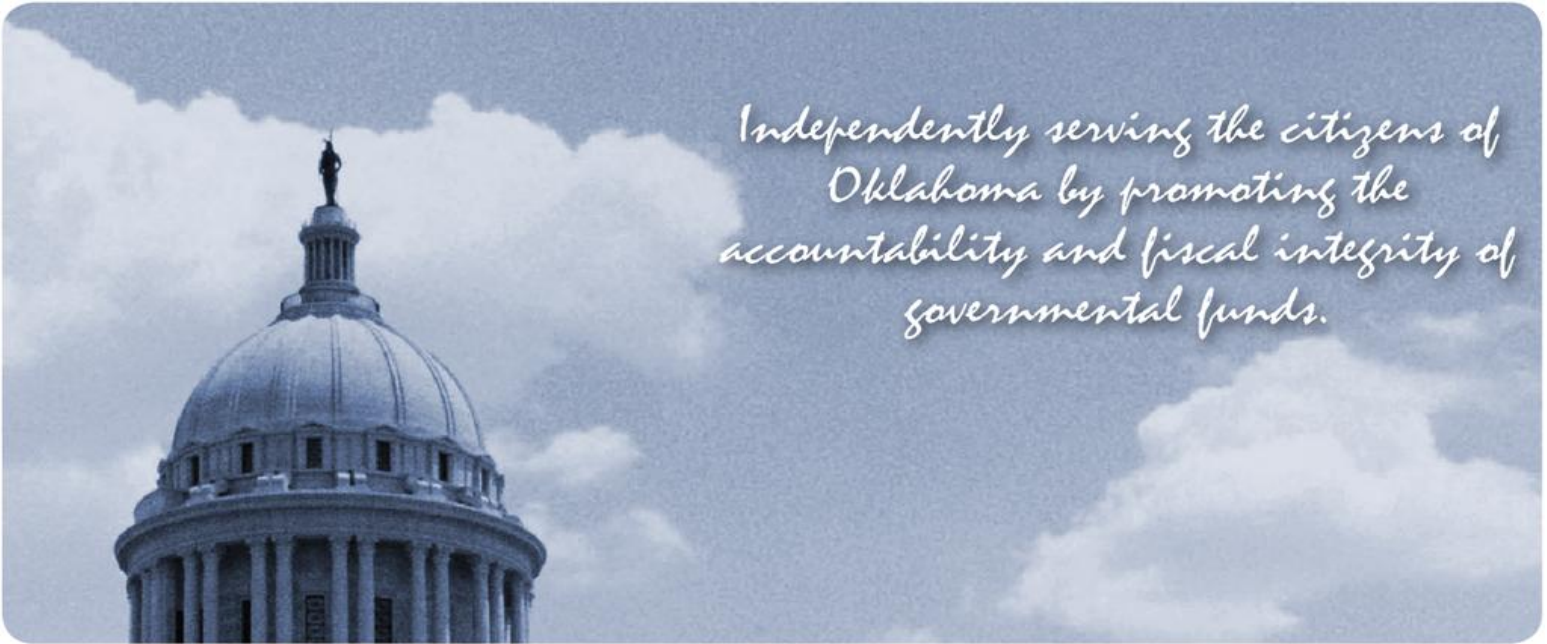


INVESTIGATIVE REPORT

TOWN OF PAOLI

July 1, 2012 through January 31, 2015



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



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

TOWN OF PAOLI
PAOLI MUNICIPAL AUTHORITY
GARVIN COUNTY, OKLAHOMA
CITIZENS PETITION REQUEST
JULY 1, 2012 THROUGH JANUARY 31, 2015



Report Highlights

This audit was performed in response to a Citizens Petition request in accordance with 74 § O.S. 212(L)

WHY WE CONDUCTED THIS AUDIT

We performed the audit in response to a citizens petition in accordance with **74 O.S. § 212(L)**.

WHAT WE FOUND

- The Board Members and employees for the Town of Paoli and the Paoli Municipal Authority appear to have benefited from a vote to exclude town employees from being required to pay for utility service. The meeting minutes both enacting, and then later rescinding, the free utility service benefit failed to mention that board members were also benefiting from the “employee” benefit.
- The Town Board may have violated the nepotism laws by appointing a sitting board member’s spouse as the town clerk/ treasurer, then allowing the clerk/treasurer to subsequently appoint the Mayor’s daughter to a deputy town clerk/treasurer position.
- Other concerns expressed by the petitioners were unsubstantiated.



Oklahoma State Auditor & Inspector

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

November 24, 2015

To the Petitioners and Citizens of the
Town of Paoli:

Transmitted herewith is the Petition Audit Report for the Town of Paoli.

Pursuant to your request and in accordance with the requirements of **74 O.S. § 212(L)**, we performed a petition audit with respect to the Town of Paoli for the period July 1, 2012 through January 31, 2015.

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

Because the investigative procedures of our petition audit do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Town of Paoli for the period July 1, 2012 through January 31, 2015.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance. We also wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our engagement.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones".

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

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Town Board of Trustees

(As of January 31, 2015)

Juanita Mata	Mayor
Lesana Carter.....	Member
Mary Lee Gish.....	Member
James Pickle	Member
Paul Beckelheimer.....	Member

Treasurer / Town Clerk

Londa Beckelheimer

CITIZENS PETITION OBJECTIVES

The citizens of the Town of Paoli requested the following be investigated as part of the State Auditor and Inspector's Petition Audit:

- I. Possible conversion of public property to personal use and operation including but not limited to the Town's Senior Citizen Center, Town vehicles, and equipment.
- II. Possible irregularities in Town purchasing policies and procedures including but not limited to possible violations of the Public Competitive Bidding Act and potential conflicts of interest between Town personnel and competing vendors.
- III. Review possible discrepancies in utility records related to meter reading practices and procedures, adherence to Town ordinances, service provided at no cost to Town officials and falsification of water inspection records.
- IV. Possible violations of the Oklahoma Records Management Act including but not limited to the destruction of certain records required to be maintained by the Town.
- V. Possible irregularities in the issuance of traffic citations, adjudication of municipal court matters and lack of appropriate record keeping of the court's legal processes.
- VI. Review the Town's hiring practices, payment of Town officials and possible nepotism.

INTRODUCTION

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

11 O.S. § 12-101, states:

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

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

In accordance with a “Citizens Petition Request for Special Audit” verified by the Garvin County Election Board Secretary in a letter dated February 9, 2015, the Office of the State Auditor and Inspector has conducted a petition audit of the Town of Paoli, primarily relating to the objectives and concerns listed in the accompanying *Table of Contents*.

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

We have provided a copy of our report to the Garvin County District Attorney’s Office for review.

BACKGROUND

Prior to the commencement of fieldwork, petitioners were interviewed to obtain detailed information related to the broad range of concerns identified in the citizen's petition. The petitioners defined ten (10) specific concerns which are summarized below.

1. The petitioners expressed concerns regarding the members of the Town's board of trustees having voted on, and approved themselves to receive free utility services.
2. The petitioners expressed concerns relating to the Town having appointed a town clerk/treasurer, who then appointed the Mayor's daughter to a deputy clerk position.
3. The petitioners expressed a specific concern relating to a local vendor being paid \$36,000 for a project, with the payments structured in such a manner as to circumvent the Public Competitive Bidding Act.
4. The petitioners expressed a concern involving the destruction of records related to the disbursement of fuel from the town-owned fueling station, in violation of the Records Management Act.
5. The petitioners expressed a concern that the Town's former police chief issued tickets for speeding violations of one to two miles per hour over the speed limit, and then charged court fines and costs in excess of the amount authorized by Town ordinances.
6. The petitioners expressed concerns that control of the Town's senior citizens center had been improperly turned over to a local resident.
7. The petitioners expressed a concern that Town officials had not actually read customer water meters but instead, estimated water billing usage.
8. The petitioners expressed a concern that a now former employee had falsified water test results.
9. The petitioners expressed a concern that a now former employee had obtained gasoline from the Town's fuel station without permission.
10. The petitioners expressed a concern that a now former employee may have received payroll advances that remain unpaid.

Concern 1 Board Members Received Free Utility Benefits

Background The petitioners expressed a concern that in May 2014, the members of the Town Board voted to exclude themselves from being billed for water, sewer and garbage service.

The **Oklahoma Constitution Article X § 11** states:

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.

Finding **The Town of Paoli board members voted to exclude themselves from paying for utility services.**

Mayor Juanita Mata was asked if the Town Board had voted and approved excluding board members from paying for utilities provided by the Town through the utility authority. Mayor Mata *stated* that in July 2014, the Town board had voted on and approved excluding *employees* of the Town from being billed for utilities but they did not vote to exclude *board members* from being billed for utility services.

We reviewed the minutes for the Town/Authority meeting held on July 14, 2014 and found the following entry:

4. Motion made by MaryLee to approve the Employee Water Benefits... 2nd by Lesana Carter. Juanita Mata yes- Lesana Carter yes- MaryLee yes- None opposed. Motion passed.

From the minutes it appears the Town/Authority board approved a “water benefit” for employees with no mention of also granting the same free utility benefit to themselves.

When towns provide utility services such as water, sewer, and trash, the records are maintained on a computer system. Generally, the utility billing software is capable of generating a customer history report which will reflect the historical information for a particular account including the amount billed, the amount paid, any late fee assessments, any adjustments made, and the account balances over time.

**TOWN OF PAOLI / PAOLI MUNICIPAL AUTHORITY
CITIZENS PETITION REQUEST
DATE OF RELEASE: NOVEMBER 24, 2015**

The Town provided a customer history report for each of the five town board members. The reports reflected that beginning August 2014, and continuing through January 2015, the board members were either not billed for utility services or, if they were billed, the billed amounts were adjusted off the accounts.

For example, the customer history for Mayor Mata reflected the account had been billed \$61.94 for utility services on August 1, 2014. On the same day account adjustments were made subtracting the \$61.94. Subsequently, there were no charges added to the account for the months of September 2014 through January 2015.

Similarly, the account history for Board Member Pickle reflected the account had been billed \$52.17 on August 1, 2014. Again, on the same day account adjustments were made subtracting the \$52.17 in charges from the account. As with Mayor Mata's account, there were no charges to the account for the months of September 2014 through January 2015.

The account histories for Board Members Gish, Beckelheimer, and Carter all reflected they had not been billed and had not paid for utility services for the months of August 2014 through January 2015.

The January 28, 2015, meeting minutes for the Town/Authority reflected the Board voted on and approved a motion to "secede employee's receiving free water."

The account histories for all five board member accounts reflected account billing resumed in February 2015. Once billing resumed it did not appear the accounts were charged for the prior unbilled month's usage from August 2014 through January 2015. The handwritten meter readings for each of the accounts indicated although the accounts were active, and water was being used during this time period, no billing amounts had been attributed to the accounts.

Using the handwritten meter readings and the billing schedule provided by the Town, we calculated the unbilled amounts as follows:

Board Member	Unbilled Amount
Mayor Mata	\$370.00
Board Member Pickle	\$334.64
Board Member Gish	\$385.25
Board Member Beckelheimer	\$421.29
Board Member Carter	\$217.80

Finding We questioned the veracity of the meeting minutes provided.

The initial concern expressed to us by a former employee of the Town, was that he had been present when the board voted to exclude employees *and themselves* from being billed for utility services. The former employee believed the vote had taken place in May 2014.

As previously noted, the meeting minutes for July 14, 2014, reflected the board had voted on and approved an “Employee Water Benefit” with no mention of the same benefit having been voted on and approved for the board members.

Although the Mayor told us the water benefit was only for employees and not for the board members, the account records for the board members indicated they also became beneficiaries of the same water benefit.

We met with Robin Newton, who serves as the Town’s independent financial consultant. According to Newton, while reviewing records she had noted the adjustment made to Board Member Pickles utility account in August 2014. Concerned, Newton contacted Town officials and inquired about the adjustments.

Newton was told the Town Board had voted on and approved free utility services to the employees *and themselves*. According to Newton over the next few months she had several conversations with Town officials concerning the water benefit and that several months’ later Town officials informed her they had stopped the practice.

Title 25 O.S. § 312 states, in relevant part:

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. *[emphasis added]*

In this case, the meeting minutes reflected the free utility benefit was to be an “Employee Water Benefit” but omitted any reference indicating the board members were also included in the benefit being voted on.

The free utility benefit for the board members appears to have ended in February 2015 when the board member’s accounts were billed for January usage, which was paid in February 2015. This action coincides with the January 28, 2015, special meeting in which the board members voted on and approved to “secede employee’s receiving free water.”

As with the July 14, 2014 action, the January 28, 2015 action that ended the free benefits also failed to mention the free benefit was being ended for the board members as well as the employees.

Whether the omissions were intentional, done to conceal the information that board members were going to benefit from the vote and then again concealing the evidence that board members had received a free benefit, is a question of fact beyond the scope of our engagement.

Concern 2 Nepotism Issues

Background A concern was presented to us that alleged the Town/Authority Board had appointed Londa Beckelheimer as the Town clerk/treasurer, who then appointed Debbie Evans, the Mayor's daughter as a deputy clerk/treasurer, to carry out the Town clerk/treasurer duties.

Section 2-301(C) of the Town Code provides, in relevant part:

In accordance with Section 8-106 of Title 11 of the Oklahoma Statutes, the town clerk/treasurer shall have the authority to appoint one or more deputy clerks, subject to confirmation by the board of trustees.

Title 11 O.S. § 8-106, as cited in **Town Code 2-301(C)**, does not grant the town clerk/treasurer the authority to appoint one or more deputies, it provides:

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.

Similarly, neither **11 O.S. § 12-109** defining the duties and responsibilities of the town clerk, nor **11 O.S. § 12-110** defining the duties and responsibilities of the town treasurer, provide for the clerk or the treasurer to make appointments.

Title 11 O.S. § 12-106 provides in relevant part:

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

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

6. Create, change and abolish offices, departments or agencies, other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article, and define the duties, powers and privileges of all officers which are not defined by this article...

Finding The board members approved the appointment of a board member's spouse to a compensated position within the Town.

During our interview with Clerk/Treasurer Londa Beckelheimer she stated that Board Member Paul Beckelheimer was her spouse. The Town/Authority minutes for the January 13, 2014, meeting minutes reflect that Londa Beckelheimer was appointed clerk/treasurer for the Town of Paoli. The minutes included the following:

Motion made by MaryLee Gish to appointing Londa Beckelheimer unexpired position of Treasure/ Town Clerk. 2nd by Lesana Carter. Juanita Mata yes- MaryLee Gish yes- Lesana Carter yes- Mark Davis yes- Paul Beckelheimer yes. None opposed. Motion passed.

As cited throughout this section, **11 O.S. § 8-106** provides, in part:

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. [*emphasis added*]

The validity of the votes, by Board Member Beckelheimer and the other board members, are questioned in the approval of the appointment of a board member's spouse to a compensated position in town government.

Finding The Town clerk appointed the Mayors daughter to a deputy clerk position without the approval of the Town board.

We interviewed Clerk/Treasurer Londa Beckelheimer who stated she had been appointed in either December 2013 or January 2014 to fill the unexpired term of the previous clerk/treasurer who had resigned.

According to Beckelheimer, because of physical limitations preventing her from sitting for long periods of time, she appointed Debbie Evans, the daughter of Mayor Juanita Mata, as a deputy clerk/treasurer to assist her in shared duties and responsibilities.

According to Beckelheimer she was paid \$600 per month for her duties as town treasurer and \$125 per month for her duties as court clerk. Beckelheimer, in turn, paid Evans \$700 per month as the deputy clerk/treasurer. Evans confirmed the financial arrangement between herself and Beckelheimer.

According to Beckelheimer the financial arrangement between herself and Evans was implemented as soon as Beckelheimer was appointed to office.

An agenda for the January 13, 2014, Town/Authority board meeting reflected two agenda items relating to the appointment of the town clerk/treasurer:

- b. Discussion/ Action appointing Londa Beckelheimer Treasurer**
- c. Discussion/ Action approval of Londa Beckelheimer appointment of Debbie Evans Deputy treasurer**

Based on the agenda items it appears the governing board was aware and contemplated appointing Beckelheimer and contemporaneously considered the approval of Beckelheimer's appointment of Debbie Evans.

The meeting minutes for the January 13, 2014, meeting of the Town/Authority reflect the board voted on and approved the appointment of Beckelheimer to fill the unexpired position of clerk/treasurer.

However, the minutes do not reflect the board voted on or approved Beckelheimer's subsequent appointment of Debbie Evans as deputy clerk/treasurer although Evan's did assume those duties as a result of the Beckelheimer appointment.

Finding The deputy clerk, who is also the Mayor's daughter, was paid by the Authority.

As noted in the previous finding, Deputy Clerk Evans served as a sub-contractor being paid by Clerk/Treasurer Beckelheimer. The personal arrangement between

Evans and Beckelheimer has apparently caused confusion as to whether Deputy Clerk Evans was an employee or volunteer of the town.

It appeared Debbie Evans, the deputy clerk, was paid from Authority funds and also paid as a sub-contracted employee of Clerk/Treasurer Beckelheimer, concurrently.

Check #4052, drawn on the Paoli Municipal Authority Revenue Account, was issued to Evans in the amount of \$2,941.58 and signed by Beckelheimer and Mayor Mata. The related purchase order reflects the payment was for Evans serving as the PMA Clerk for the time period December 15, 2013 through April 15, 2014.

The meeting minutes for a Special Meeting held on April 21, 2014, reflected *one of the boards*, voted on and approved paying Debbie Evans for her services as the Authority clerk. The meeting minutes reflected:

C. Motion made by MaryLee Gish to compensate Debbie Evans for helping Temporarily in PMA clerk position from Dec. 15,2013 to April 15,2014. Juanita Mata abstained - Lesana Carter yes MaryLee Gish yes and Paul Beckelheimer yes. None opposed. One abstained.Motion passed.

Neither the agenda nor meeting minutes for the Special Meeting held on April 21, 2014, reflect if the meeting was a meeting of the Town Board of Trustees or a meeting of the Paoli Municipal Authority.

From our review of minutes, the Town holds one meeting that simultaneously serves as the meeting for the Town Board of Trustees and for the Trustees of the Public Trust. Although **60 O.S. § 176.1(A)(2)** provides that a Trust, such as the Authority, shall exist “as a legal entity separate and distinct from the settler and from the governmental entity that is its beneficiary”.

Concern 3 Violations of the Public Competitive Bidding Act

Background The petitioners expressed a concern that the Town had utilized one primary vendor for service and repair of the town’s water/sewer system. The concern specifically related to the Town having purportedly paid one vendor \$36,000 for one project, through three separate payments of \$12,000, in order to circumvent the Public Competitive Bidding Act.

Finding We found no violation of the Public Competitive Bidding Act.

Part of the **Public Competitive Bidding Act, 61 O.S. § 103(A)** states:

Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by open competitive bidding ...

As such the threshold level for a violation of the Act would require the Town or the Authority to have contracted with the vendor for a project wherein the costs exceeded \$50,000.

Section 7-106 of the Town Code, relating to competitive bidding provides for procedures to be followed but does not provide a dollar threshold. **Section 7-107** of Town Code provides, in relevant part:

The following may be purchased without giving an opportunity for competitive bidding:

Supplies, materials, equipment or contractual services whose cost does not exceed Twenty Five Thousand dollars (\$25,000.00) in a single transaction.

(Title 61 §1, 5-10-99).

The Town's code references the Public Competitive Bidding Act which, at that time, provided for a bidding requirement for public construction projects exceeding \$25,000. The \$25,000 specified in the Public Competitive Bidding Act was raised in 2009 to \$50,000.

As such, a payment of \$36,000 for a project in any year after 2009, to a vendor for a single public construction contract, would not be a violation of the Public Competitive Bidding Act. However, the payment of \$36,000 to a vendor for a public construction contract would violate Town Code.

According to the Mayor, the project in question cost approximately \$1,500; neither the Town nor the Authority had ever paid the vendor in question \$36,000 for *any* project. We also contacted the vendor who said he did perform work for the Town but had never been paid more than a few thousand dollars for any one project.

We reviewed the Town/Authority bank records for payments to the vendor and found, during FY 2014-15, the vendor was paid less than \$10,000 total, for several individual projects.

We also reviewed the bank statements for the same time period, to see if any payments to any single vendor exceeded \$10,000, as the concern alleged there had been a series of three payments of \$12,000 to the vendor in question. We found one payment, for \$41,568 on February 18, 2015, to a car dealership for the purchase of a police unit. The purchase and payment for a police unit would not be considered a public construction contract as contemplated by the Public Competitive Bidding Act.

The concern appears to be unsubstantiated.

Concern 4 Violations of the Records Management Act

Background Petitioners expressed a concern that Town officials had shredded or otherwise destroyed records relating to the use of fuel from the Town’s fuel pumps.

The **Records Management Act** (the “RMA”) is defined in **67 O.S. §§ 201 et.seq.**

Title 67 O.S. § 207 of the RMA specifically provides:

The governing body of each county, city, town, village, township, district, authority or any public corporation or political entity whether organized and existing under charter or under general law shall promote the principles of efficient records management for local records. Such governing body shall, *as far as practical*, follow the program, established for the management of state records. The Administrator shall, insofar as possible, upon the request of a governing body provide advice on the establishment of a local records management program. [emphasis added]

Title 67 O.S. § 209 further provides:

All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this state in the course of their public duties shall not be mutilated, destroyed, transferred, removed, altered or otherwise damaged or disposed of, in whole or in part, except as provided by law.

In addition Attorney General Opinion 2001 **OK AG 46** discusses the RMA as it relates to local governments. **OK AG 46** addressed the issue of the relevance of the RMA to local governments stating in part:

Although the Archives and Records Commission has no authority over records and archives of political subdivisions of the State, the Records Management Act, 67 O.S. 1991 & Supp. 1999, §§ 201 to 215, requires

State political subdivisions to follow the program established for the management of State records "as far as practical." What is "practical" is a question of fact beyond the scope of an Attorney General Opinion. 74 O.S. Supp. 2000, § 18b(A)(5).

Finding **As defined by statutes the Town is required to adhere to the Records Management Act “as far as practical.”**

The specific RMA issue brought to our attention was that the former police chief had observed Town officials shredding fuel logs that appeared to be FY2013-14 records. The FY 2013-14 time period coincides with another specific allegation of employees obtaining fuel without authorization between January and March 2014.

As stated previously both **67 O.S. § 209** and Attorney General Opinion **OK AG 46** provide local governments should comply with the RMA, “as far as practical.” What constitutes “practical” is not within the purview of the State Auditor’s Office.

Although the Town’s compliance with the RMA appears to be compliance “as far as practical” we obtained and reviewed the Archives and Records Commission’s Consolidated General Records Disposition Schedule (GRDS) as it relates to the requirement of maintaining vehicle fuel records.

Section 1-32 of the GRDS provides for the retention of “Fleet Management Monthly Report” described as follows:

Monthly summaries turned into Fleet Management Division reporting fuel costs and usage, maintenance done and cost and related information. The Fleet Management Division of the Department of Central Services is the state office of record (Schedule 90-05, Series 8-8).

We reviewed Schedule 90-05, Series 8-8, with respect to the motor vehicles and fuel usage reports. Section 4-36 of Schedule 90-05, Series 8-8, relating to fuel consumptions, provides, in relevant part:

Description: Monthly recap and comparison sheet for fuel issues. The file includes all gasoline purchased for tanks at Central Motor Pool and all fuel pumped from these tanks.

Disposition: **Retain in office until one (1) year after all audits have been completed** and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies and provided no legal actions are pending, then destroy. If legal action is pending destroy two (2) years after exhaustion of all legal remedies. [emphasis added]

The Town's independent audit for FY2013-14 was dated February 7, 2015, and had been submitted to our office on March 4, 2015. Based on the language contained in Section 4-36 of Schedule 90-05 the earliest the Town should have destroyed the fuel records, in accordance with the RMA provisions, would have been February 7, 2016.

When we asked for the FY2013-14 fuel records Mayor Mata told us those records, although not shredded, had been destroyed.

Concern 5 Improper Fees Collected for Violations of Traffic Ordinances

Background A petitioner expressed the following two concerns:

1. During 2013 the police chief at the time, Chief Johnny Turner, had allegedly issued speeding citations for infractions that were 1-2 miles per hour over the posted speed limit.
2. Allegedly the fine and cost amounts collected by the Town's municipal court were excessive. According to the petitioner, the fine amounts should not have exceeded \$95, but ranged from \$135 to as much as \$225.

Finding **The concern related to citations being issued for 1-2 mph over the speed limit was unsubstantiated.**

We reviewed fifty (50) speeding citations issued by Police Chief Turner in 2013. All fifty (50) of the citations had been issued for speeds 11 mph or more, over the posted speed limit. Police Chief Turner stated he could not recall having ever issued a speeding citation for violations of 1 to 2 mph over the speed limit.

Finding **The concern relating to excessive fine amounts by the Town was unsubstantiated.**

We attempted to compare citation amounts to the fines established by Town *ordinance* to determine whether they were consistent with the amount authorized. We reviewed the latest Town code book and found no ordinance related to fines for traffic violations.

However, we were provided the Board *Resolution*, dated June 11, 2012, establishing the authorized fine schedule for traffic violations in effect for 2013.

Although the fines were not established by ordinance, it appears it was the intent of the Board for the Town to follow the fine guidelines established by Resolution R-04-07-002-T, dated June 11, 2012.

According to the petitioner, speeding tickets for 1-9 mph over the speed limit should have been \$85 and the fine for 10-19 mph should have been \$95. It was alleged that the smallest amount fined was \$135, and fines up to \$225 had been assessed.

Based on Resolution R-04-07-002-T, dated June 11, 2012, the fine for speeding citations for 1-9 mph over the speed limit was actually \$95 and the fine for 10-19 mph over the speed limit was actually \$105.

For the fifty citations reviewed, we traced each citation to the fine schedule established by Resolution R-04-07-002-T. We found the smallest citation was for \$95, not \$135 as alleged, and the largest citation for speeding was \$135, not \$225 as alleged. The amount of each citation was consistent to the fine schedule for traffic violations established by the Resolution.

The concern relating to the court having charged excessive fine amounts for speeding was unsubstantiated.

Finding Traffic fine amounts were established by a board resolution rather than by ordinance.

Resolutions and ordinances are defined in **11 O.S. § 1-102**, which provides in relevant part:

“Ordinance” means a formal legislative act of a municipal governing body which has the force and effect of a continuing regulation and a permanent rule of conduct or government for the municipality;

“Resolution” means a special or temporary act of a municipal governing body which is declaratory of the will or opinion of a municipality in a given matter and is in the nature of a ministerial or administrative act. A resolution is not a law and does not prescribe a permanent rule or conduct of government;

Establishing the fines for traffic citations would be considered a formal continual and permanent action of the governing body, which appears to meet the definition of an ordinance; therefore, this action would more properly be done by ordinance rather than by resolution.

We did note that other issues related to traffic fines had been set by ordinance.

Finding The same resolution number was used to amend a previous resolution.

When obtaining resolutions for the authorized fine amounts that were in effect for citations issued in 2013, we noted that Resolution R-04-07-002-T was adopted on June 11, 2012. However, the resolution dated June 23, 2014, amending the June 11, 2012 resolution, was also named Resolution R-04-07-002-T.

Moreover, both resolutions were actually adopted to amend Resolution No. 01-08-18 when the June 23, 2014, resolution was actually adopted to amend the June 11, 2012, that has the same number.

Now therefore be it resolved, by The Paoli Board of Trustees and The Paoli Municipal Authority that Resolution No. 01-08-18 be amended and adopt Resolution R-04-07-002-T. The Bail Bonds will hereafter be as follows:

To avoid confusion, we recommend that each resolution passed have a separate and distinct number.

Finding The June 23, 2014, meeting minutes did not reflect the approval to amend Resolution R-04-07-002-T.

Included on the agenda for the June 23, 2014, special meeting was an agenda item for the discussion, action or approval to amend Resolution R-04-07-002-T. However, there was no mention of the resolution in the meeting minutes.

Concern 6 Control and Oversight of the Senior Citizen's Center

Background The petitioners expressed concern that the Town had given a local resident total control of the Paoli Senior Citizen's building. The local resident was purportedly accepting money for the use of the building and not turning the money over to the Town.

Finding The Town does not own the Senior Citizens building.

According to Town officials, the Town does not own the Senior Citizen's building and they do not exercise control over the building. The building is owned by the Paoli Senior Citizens Association ("Association"). We interviewed the resident that was purported to have control of the building who also stated the building was owned by the Association.

The Association is registered with the Oklahoma Secretary of State as a 501(C)(3) nonprofit organization. We obtained records from both the Garvin County Assessor's Office as well as the Garvin County Clerk's Office reflecting the Senior Citizen's building was owned by the Association.

We would not expect the Town to exercise control over a building they do not own. The concern was without basis.

Concern 7 Failure to Read Water Meters

Background A petitioner alleged that between February 2014 and December 2014, when he was an employee of the Town, he had never seen anyone read the Town's water meters. The petitioner also stated that when current Authority employee Kevin Hawkins assumed the duties of reading the meters, approximately 80% of the meters could be read and the other 20% were "under earth and had to be unearthed".

Finding **The allegation was unsubstantiated.**

Public Works Authority employee Kevin Hawkins stated that the meters were being read. Hawkins also indicated the statement on the inability to locate meters was not true. According to Hawkins, when he began his employment in August 2014 he trained under the former water employee and was shown where the meters were located.

We requested and were provided meter reading books for August 2014 through January 2015. We noted the books contained handwritten entries for the meter readings for each account. Whether or not the handwritten entries in the meter reading books are accurate, and were done as a result of physically reading each meter, was beyond the scope of our investigation.

Concern 8 Falsification of Water Testing Records

Background A concern was presented that a now former Town employee had falsified water testing records. The petitioners referred us to a former Town board member to obtain more specific information.

Finding There were insufficient records or information available to verify the concern.

We contacted the former board member who stated that sometime in the winter of 2013, he observed that a now former town employee had recorded the results of a PH test purportedly taken at a sewer lagoon.

According to the former board member, he went to the sewer lagoon area later that day and, although there was snow on the ground, there were no tracks in the snow indicating the employee had actually been at the location to perform the test.

The board member said he took pictures depicting the lack of footprints in the snow, but he had since lost those pictures. The board member also stated he had reported these circumstances to the Oklahoma Department of Environmental Quality.

We were unaware of any independent records available for us to review, to refute or confirm this allegation.

Concern 9 Theft of Gasoline by a Former Employee

Background A petition alleged that a now former employee had put fuel in his personal vehicle from the Town's fuel station without proper authority or permission.

Finding There were insufficient records or information available to make a determination concerning this allegation.

According to the former Police Chief, he had witnessed an employee using the Town's gas dispenser without authorization, sometime during February, March, or April 2014. The former Chief reported his observations to the Mayor but took no further action.

According to the Chief, Town Board Member Mary Lee Gish would also have information, as well as records, relating to the gasoline theft. We contacted Board Member Gish who stated she did not have any records or information concerning the reported gas theft.

Town employees complete a "fuel report" when using the Town's fuel station; however, those records are not maintained once the audit for that fiscal year is completed. As such, the fuel reports for FY2013-14 had been disposed of and were not available for our review. The destruction of fuel reports was addressed earlier in this report.

The Town had no relevant records for us to review to substantiate or refute the alleged fuel theft. We also contacted the former employee who stated he had never put fuel in his personal vehicle from the Town's fueling station without permission.

Concern 10 Unpaid Payroll Advances

Background A concern was expressed alleging that a former employee obtained advances on his paycheck that were unpaid to the Town when the employee resigned.

Finding **The allegation was unsubstantiated.**

The former Police Chief apprised us of the concern but stated he had no specific information relating to the pay advances. According to the former Chief, we would be able to obtain specific information from the Town's former clerk/treasurer.

We contacted the former clerk/treasurer who said she had no specific information concerning pay advances to the former employee. She stated no pay advances had taken place during the time she had been the town's clerk and treasurer, at least up until her resignation in January 2014.

We reviewed the bank statements for the period between the former clerk/treasurer's resignation and the former employee's resignation and found no indication the employee had received a pay advance.

We also spoke with the former employee who stated he had never received an advance on his pay.

Disclaimer In this report there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.



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