



Special Audit Town of Sparks

Lincoln County

August 1, 2004 through August 31, 2006



Office of the Oklahoma State Auditor and Inspector
Jeff A. McMahan, CFE



JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The Town of Sparks audit was performed pursuant to the District Attorney's request in accordance with **74 O.S. 2001, § 212(H)**.



**Town of Sparks
Lincoln County
Special Audit Report
August 1, 2004 through August 31, 2006**

Audit Summary:

- ✓ Payments for traffic tickets in the amount of \$10,155.00 were not deposited in the bank during the audit period of August 2004 through August 2006. **Pgs 7 & 8**
- ✓ Payments for traffic tickets and miscellaneous revenue are not deposited daily as required by state law. **Pgs 7 & 8**
- ✓ Payments of miscellaneous revenues in the amount of \$865.65 were not deposited in the bank during the audit period of August 2004 through August 2006. **Pgs 8 & 9**
- ✓ The Town employees could not locate the items purchased in the amount of \$449.96. **Pg 11**
- ✓ Possible nepotism and dual office holding were noted. **Pg 11**

TOWN OF SPARKS

LINCOLN COUNTY

SPECIAL AUDIT REPORT

AUGUST 1, 2004 THROUGH AUGUST 31, 2006

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

October 15, 2007

Honorable Richard L. Smothermon
District Attorney, District No. 23
331 N. Broadway
Carnegie Building
Shawnee, Oklahoma 74801

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

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

A handwritten signature in blue ink that reads 'Jeff A. McMahan'.

JEFF A. MCMAHAN, CFE
State Auditor and Inspector

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

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BOARD OF TRUSTEES

Pam Kirkham Mayor
Roger Baker Trustee
Melvin McBane Trustee
Doug Jones Trustee
Jimmy Simek Trustee
Liz Hellams Former Clerk/Treasurer
August 2004 through August 2006
Trudy Kroutil Current Clerk/Treasurer



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Board of Trustees
Town of Sparks
P.O. Box 148
Sparks, Oklahoma 74869-0148

Dear Trustees:

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 Sparks, Lincoln County, for the period August 1, 2004 through August 31, 2006.

The objectives of our special audit primarily included, but were not limited to, the areas noted in the District Attorney's request. 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 Sparks for the period August 1, 2004 through August 31, 2006. 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, the Town of Sparks and the 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. 2001, § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. MCMAHAN, CFE
State Auditor and Inspector

May 29, 2007

INTRODUCTION

The Town of Sparks, 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, states:

“The form of government provided by Sections 11-12-101 through 11-114 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.”

In addition, **11 O.S. 2001, § 12-102**, states in part:

“The town board of trustees shall consist of either three (3) or five (5) trustees who shall be nominated from wards or at large and elected at large.”

Pursuant to the District Attorney’s request, the State Auditor and Inspector conducted an audit of the Town of Sparks, primarily those records relating to the concerns in the request. The results of the audit are in the following report.

BOARD OF TRUSTEES FIDUCIARY RESPONSIBILITY

The Board of Trustees for the Town of Sparks has an obligation to act in the best interest of the Town as a whole. This fiduciary responsibility requires that all funds belonging to the Town 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.

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 Sparks.

CONCERNS, FINDINGS AND RECOMMENDATIONS

I. CONCERN: *Possible irregularities in traffic ticket revenues.*

FINDING: We prepared a spreadsheet that consists of all tickets issued during the period August 1, 2004 through August 31, 2006. The spreadsheet reflects the status of the tickets as dismissed tickets, paid tickets, payment plan, bench warrants being issued and cash receipt payments.

The spreadsheet also contains \$18,361.00 of receipts issued by the former Town clerk for the Town of Sparks for payments on traffic tickets. Receipts were marked as cash, check, money order or unmarked as to the type of funds received.

We were unable to trace receipts in the amount of \$7,795.00 for payment of traffic tickets to corresponding deposits at the bank.

We reviewed a ticket register maintained by the former clerk to determine payments made and posted to ledgers with no receipts being issued. Ledgers reflect some payments made for traffic tickets, but no funds were deposited with the bank. Tickets in the amount of \$2,360.00 marked as "paid" on the tickets and ledger could not be traced to deposits.

The police chief stated that he observed on May 11, 2006, the former clerk was not writing a receipt to a person for payment on a ticket. He brought to her attention that she should write a receipt for everyone that makes a payment.

Payments for traffic tickets in the amount of \$10,155.00 were not deposited in the bank during the audit period of August 2004 through August 2006.

The clerk's duties include receipting, depositing, and recording all transactions pertaining to the Town's Police Account. The failure to deposit monies collected appears to violate **21 O.S. Supp. 2002, § 341**, which states, in part:

Embezzlement and false accounts by officers

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 ... 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.

We noted numerous instances where receipts were written and funds were deposited up to 65 days later. Below is an example of the receipts.

Rec. date	Rec. Num	Rec. Amt	Dep. Date	Days between Bank Records	Check	Bank Records M.O.
11/7/05	437156	\$70.00	1/11/2006	65		\$70.00
9/22/05	437144	\$109.00	10/6/2005	14		\$109.00
5/23/05	437096	\$50.00	6/6/2005	14		\$50.00
3/14/06	437177	\$95.00	3/27/2006	13	\$95.00	
7/13/05	437125	\$105.00	7/25/2005	12	\$105.00	
3/16/06	437179	\$105.00	3/27/2006	11	\$105.00	
3/17/05	437074	\$95.00	3/21/2005	4	\$95.00	

Based on procedures performed, we determined that there were instances of dollars being held in Town offices for days without a deposit being made. This appears to violate of **11 O.S. 2001, § 27-112** and **62 O.S. 2001, § 517.3(B)**.

11 O.S. 2001, § 27-112 states:

“All of the fees, fines, and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make duplicate receipts for the fees, fines, and forfeitures collected by him, one copy of which shall be retained by the municipal treasurer together with a detailed statement of all costs, the style of the case in which they were paid, and the name of the party paying the same.”

In addition, **62 O.S. 2001, § 517.3(B)** states in part:

“B. 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[.]”

RECOMMENDATION: We recommend the Town adopt policies and procedures to insure compliance with the applicable state statutes. We recommend the proper authorities review this finding to determine what action, if any, may be required.

II. CONCERN: *Possible irregularities in Town revenues.*

FINDING: We prepared a list of receipts issued from the Town of Sparks miscellaneous receipt book, and traced all receipts to Town of Sparks bank records to determine whether all funds were deposited correctly.

Receipts that were marked as “cash payment” and not deposited in the bank totaled \$535.15. Transactions not marked as to method of payment that were not deposited in the bank totaled \$150.00.

Some receipts were issued for cash payments marked as ticket payments and were included in the first finding.

The Town of Sparks ledger reflects two transactions that were not receipted in the receipt book or deposited in the Town of Sparks bank account. These transactions totaled \$183.50.

Total funds missing or not deposited in the Town of Sparks Account are \$868.65.

The clerk's duties include receipting, depositing, and recording all transactions pertaining to the Town of Sparks Account. These findings appear to violate **21 O.S. Supp. 2002, § 341**, which states, in part:

Embezzlement and false accounts by officers

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 ... 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.

We noted numerous instances where receipts were written and funds were deposited up to 55 days later. Below are a few receipts receipted by the former Town clerk.

TOWN OF SPARKS
LINCOLN COUNTY
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Rec. Date	Receipt Number	Bank Records Dep. Date	Days between Dates	Bank Records Check	Bank Records Cash
11/17/2005	297395	1/11/06	55	\$200.00	
12/15/2005	297397	1/11/06	27	\$150.00	
10/26/2005	297394	11/9/05	14	\$25.00	
8/12/2004	297362	8/23/04	11	\$200.00	
11/15/2004	297368	11/26/04	11	\$200.00	
3/16/2006	166905	3/27/06	11	\$200.00	
9/17/2004	297365	9/27/04	10	\$25.00	
11/24/2004	297369	12/3/04	9	\$25.00	
8/5/2004	297361	8/13/04	8	\$25.00	
7/13/2006	166909	7/21/06	8	\$200.00	
1/6/2005	297372	1/12/05	6		\$50.00
1/6/2005	297373	1/12/05	6	\$200.00	
2/8/2005	297374	2/14/05	6	\$25.00	
3/31/2005	297379	4/6/05	6	\$25.00	
7/12/2005	297387	7/18/05	6	\$200.00	
1/5/2006	297398	1/11/06	6	\$200.00	
3/1/2006	166904	3/7/06	6	\$150.00	
2/17/2005	297375	2/22/05	5	\$200.00	
8/23/2004	297363	8/27/04	4	\$50.00	
3/17/2005	297377	3/21/05	4	\$200.00	
6/15/2006	166908	6/19/06	4	\$200.00	
8/17/2006	166913	8/21/06	4	\$200.00	
12/13/2005	297396	12/16/05	3	\$200.00	
2/14/2006	297399	2/17/06	3	\$200.00	
5/9/2006	166907	5/12/06	3	\$200.00	

Based on procedures performed, we determined that there were instances of dollars being held in Town offices for days without a deposit being made. This appears to violate state statutes **11 O.S. 2001, § 27-112** and **62 O.S. 2001, § 517.3(B)**.

11 O.S. 2001, § 27-112 states:

All of the fees, fines, and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make duplicate receipts for the fees, fines, and forfeitures collected by him, one copy of which shall be retained by the municipal treasurer together with a detailed statement of all costs, the style of the case in which they were paid, and the name of the party paying the same.

In addition, **62 O.S. 2001, § 517.3(B)** states in part:

B. 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[.]

RECOMMENDATION: We recommend the Town adopt policies and procedures to insure compliance with the applicable state statutes. We recommend the proper authorities review this finding to determine what action, if any, may be required.

III. CONCERN: *Possible irregularities in purchases to a vendor.*

FINDING: We reviewed all purchases to the specific vendor. All invoices were accounted for during the audit time period. The following exceptions were noted regarding items purchased. The Town employees could not locate the following items.

- A software package of "win xp home sp2 cd" was purchased on 10-6-2004 for \$199.99
- A Sharpe XE-A102 Cash Register was purchased on 9-1-2005 for \$99.99
- A label maker was purchased for \$49.99, and a Palm Z22 handheld for \$99.99 was purchased on 12-19-2005

The former Town clerk made all of the above purchases.

RECOMMENDATION: We recommend the proper authorities review this finding to determine what action, if any, may be required.

IV. CONCERN: *Possible irregularities in petty cash expenditures.*

FINDING: All petty cash receipts were accounted for except a few totaling \$171.11 that were listed in the expenditure total on monthly reports. No receipts were noted to support the reports. An extra receipt was noted for \$52.34, which was not listed on the reports but was found in the petty cash folder at Sparks.

RECOMMENDATION: We recommend the proper authorities review the above findings to determine what action, if any, may be required.

V. CONCERN: *Possible nepotism and dual office holding.*

FINDING: After reviewing the minutes of the May 3, 2004 meeting, former Mayor Russell Grimes introduced his niece who was applying for the clerk position and the Town took a vote and hired her that night. Mayor Russell abstained on the vote. The clerk that was hired is the former Town clerk.

In accordance with **11 O.S. §8-106** cited below:

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 third degree of relationship would include children, parents, grandparents, grandchildren, aunts/uncles and nieces/nephews. The current Mayor served as clerk and treasurer of the Town until the current clerk was hired.

RECOMMENDATION: We recommend the Town adhere to the statutes referenced above. We recommend the proper authorities review the above findings to determine what action, if any, may be required.

* * *

Throughout this report there are numerous references to state statutes and legal authorities which appear to be potentially relevant to issues raised by the District Attorney 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 the Town'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.

Protecting Your Tax Dollars



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