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September 14, 2006

The Honorable Bryan Lawrence, Board Chair
Baldwin Township
30239 128th Street
Princeton, Minnesota 55371

Dear Mr. Lawrence:

The State Auditor's Office has completed a review of concerns received regarding the creation of a dive team by the Northeast Sherburne Fire & Rescue Department (Fire Department), Baldwin Township's (Town) fire department, and the expenditure of Town funds for the dive team. We found during this review that questions regarding the creation of a dive team raised greater concerns about the need for increased internal controls over the Town's finances as a whole.

The findings of our review are:

- The Town Board may not have formalized the creation of a dive team, but they were aware of its activities and had access to the costs that were being expended.
- The Town and the Sherburne County Sheriff have entered into a mutual aid agreement for the services of the dive team.
- The Town should formalize a contract with the Sherburne County Sheriff (through the County Board) that sets out the terms for the purchase of dive equipment, including payment, storage, control, and use of the equipment.
- The Town should take steps to improve its internal controls.

The Town is located in Sherburne County and has a population of 6,094 residents. The Town Board consists of five members, with meetings held monthly. The Town has ranked in the top 15 percent for total revenues and expenditures for the approximate 1,790 towns in 2003 and 2004.¹

¹ Pursuant to the Minnesota Township Finances 2004 Revenues, Expenditures, and Debt report from the State Auditor's Office issued October 24, 2005. Available at <http://www.auditor.state.mn.us/Search/TownshipSearch.aspx>.

I. Dive Team

Authority

The Fire Department was established in 2002. The Northeast Sherburne Fire and Rescue Department Handbook states in the list of firefighter duties that Fire Department members “shall extinguish and prevent fires, effect rescues, and render emergency medical services.”² The Handbook also provides that the Chief will have responsibility for providing adequate fire protection, emergency medical services, rescue, and management of personnel.³ However, the Chief is responsible to the Baldwin Town board for the operation of the Fire Department.⁴

The Town does have authority to provide rescue services, including water rescue through its Fire Department. Baldwin Township elected to acquire urban town powers in 1985.⁵ The board of an urban town may establish a fire department, appoint its officers and members, prescribe their duties, and provide fire apparatus.⁶ An urban town board may by ordinance provide for the cleaning of and removal of obstructions from waters in the town.⁷ Additionally, boards of urban towns have the authority to provide for the “general welfare” by ordinance, including the protection of public and private property, and the promotion of health, safety, and the general welfare.⁸ Some of the purchases made for the dive team would be valid expenditures for the Fire Department in providing water rescue services.

However, the Fire Department wanted to form a recovery dive team. When the dive team was created, Mark Bennett, who was then the Fire Chief (former Fire Chief), reported at an annual Township meeting that the Department “started underwater training and is setting up a county wide emergency response dive team that would specialize in body recovery, and bringing up wrecks.”⁹

The Town did not have authority to start a dive recovery team to recover bodies from the water. A number of statutes specifically confer duties and authority to the sheriff with respect to water-related issues. For example, the Minnesota Statutes Chapter addressing water safety states that the sheriff of every Minnesota county is required to maintain a search and rescue program.¹⁰ Operators of watercraft involved in an accident resulting in injury or death must report the accident to the Sheriff.¹¹ When a death occurs that requires an investigation, the sheriff is to

² Northeast Sherburne Fire and Rescue Department Handbook, Revised January 2005, Section VI.

³ Northeast Sherburne Fire and Rescue Department Handbook, Revised January 2005, Section IX.

⁴ *Id.*

⁵ An April 10, 1985 letter notifying the Secretary of State of the decision to acquire urban town powers was filed on April 25, 1985.

⁶ Minn. Stat. § 368.01, subd. 9 (2004).

⁷ Minn. Stat. § 368.01, subd 14(5) (2004). In this case, however, there does not appear to be any ordinance or resolution passed by the Board related to a dive team.

⁸ Minn. Stat. § 368.01, subd. 19 (2004).

⁹ Baldwin Township Annual Meeting minutes, March 8, 2005.

¹⁰ Minn. Stat. § 86B.105 (2004).

¹¹ Minn. Stat. § 86B.341 (2004).

proceed to the body and take charge of it.¹² Therefore, the Sheriff must be involved when accidents occur involving watercraft, and has exclusive jurisdiction over recovery of bodies from the water.

Creation of the Dive Team and Town Board Knowledge

At the December 6, 2004 regular Town meeting, the former Fire Chief reported to the Town Board that the Fire Department was looking into establishing a certified dive team.¹³ There was no formal resolution or action by the Board approving the dive team. At the March 8, 2005 annual Town meeting, the former Fire Chief informed the Board that the Fire Department had started underwater training.

The former Fire Chief included updates on dive team activities in his reports to the Board at monthly meetings on numerous occasions. On July 11, 2005, the former Fire Chief reported to the Board that there were 25 people participating in the dive team, and that 6 were from Baldwin Township.¹⁴ At a September 2005 meeting, the former Fire Chief reported that the dive team would be operational on October 1, 2005, and that the dive team would be utilized county-wide and would be the only dive team in the county.¹⁵

The former Fire Chief made a Power Point presentation at the March 14, 2006 annual Town meeting that included a report on the dive team. This presentation included a slide headed "County Dive/Rescue Team" that included bullet points reading "One of a kind service," "Sponsored by the Sheriff," "County wide response," "18 members – 11 from Baldwin," and "Train at least 1 extra drill."

The final decisions about dive team purchases were made by the former Fire Chief. Based upon our review of the claim process and during interviews with Town officials and staff, we found that it was common for the former Chief and fire department staff to personally pay for fire department and dive team training and equipment and then request reimbursement. In 2005 and 2006, we found that there were 21 payments made totaling \$51,271.28 for dive team purchases. Twelve of the payments for dive team purchases were reimbursements to the former Fire Chief totaling \$37,000.21, one payment was a reimbursement to a staff member totaling \$1,385.45 and the remaining eight payments were directly to vendors totaling \$12,885.62.

Agreement to Transfer Dive Team to the County

Minutes from the April 3, 2006 regular Town meeting state that the former Fire Chief reported that he has been meeting with the Sheriff, and there had been an agreement to fund the dive team. Also during this meeting, a meeting attendee asked "the deputy" how much Sherburne County is paying for the dive team, with the deputy responding that the Sheriff's Department is

¹² Minn. Stat. § 390.32, subd. 7 (2004).

¹³ See Baldwin Township Regular Meeting minutes, December 6, 2004.

¹⁴ See Baldwin Township Regular Meeting minutes, July 11, 2005.

¹⁵ See Baldwin Township Regular Meeting minutes, September 12, 2005.

in the early negotiation stages on personnel and expenditures. The minutes from this meeting also state that “the dive team will be serving Sherburne County through firefighters from Baldwin, Big Lake, and county deputies.”

In May 2006, it was reported that the Town dive team was taken over by the Sherburne County Sheriff’s Department and that the Sheriff is currently running the dive team. Since the Sheriff exerted his authority, the Fire Department is no longer operating a dive team. According to Sergeant Doran of the Sherburne County Sheriff’s Department, the Town Board and the Sheriff decided that it would be redundant for the Town to continue dive related operations with the Sheriff now operating a County dive team. Also according to Sergeant Doran, there are currently four County employees on the dive team, and seven firefighters (four from Baldwin, and one each from Princeton, Becker, and Big Lake).¹⁶

Previously, the County had divers that it could call on when necessary. According to Sergeant Doran, these divers did recovery only, and the County had limited dive equipment.

Based on our interviews with Board members, Sergeant Doran, and minutes from a July 9, 2006 Special Town Board meeting, the Town and County have reached an oral agreement that the County is to purchase dive equipment from the Town.¹⁷ At the July 9 meeting, the Sheriff indicated that the Town “will receive back approximately \$39,000 plus.”¹⁸

According to Sergeant Doran, the County is buying equipment valued at \$38,997.23 from the Town.¹⁹ The Sheriff’s Department has reviewed a list of equipment from the Town to be transferred to the Sheriff’s Department. Sergeant Doran reported that the equipment was in good condition, and that it fulfilled a need that the County had due to its previous limited supply of dive equipment. An invoice totaling \$12,045.74 was sent by the Town to the Sheriff’s Office for the boat, motor, and trailer. In early September, 2006, the Town received a check from the Sheriff’s Department for the boat, motor, and trailer.²⁰ The Sheriff stated at the July 9 meeting that “the boat and ambulance will stay in Baldwin Township.” Additionally, the County has paid \$22,531.75 for a recent upgrade to the paging system that will be used by the Fire Department and its dive team.²¹

In July 2006, the Town signed a mutual aid agreement with the Sheriff’s Department and the Cities of Big Lake, Becker, and Princeton for dive team services. However, no formal contract or agreement has been made with respect to the sale of equipment. We recommend that the

¹⁶ Minutes from the July 9, 2006 Special Town Board Meeting indicate that the Sheriff reported there are thirteen people in training for the dive team, and ten of those people are from Baldwin.

¹⁷ The approximately \$9,000 that the Town spent on training will not be reimbursed by the County.

¹⁸ Baldwin Township Special Town Board Meeting With Fire Department Officers minutes, July 9, 2006.

¹⁹ This amount comes from an inventory list faxed to the State Auditor’s Office from the Sherburne County Sheriff’s Department containing dive related items that the County is purchasing.

²⁰ We have been informed that payments from the Sheriff’s Department to the Town for equipment will be recorded in the Fire Department fund. Whether the receipt of those funds into the Fire Department fund will reduce future levies will need to be determined by the Town Board.

²¹ Baldwin Township Special Town Board Meeting With Fire Department Officers minutes, July 9, 2006.

Town Board and the Sheriff's Department (through the County Board) enter into an agreement regarding the specific equipment to be purchased by the Sheriff's Department, including the price, payment terms, equipment storage, access to equipment, use of the equipment, and who will be responsible for insuring the equipment.

Conclusion

The Fire Department had authority to provide water rescue services. However, a town does not have authority to operate a dive recovery team. The Town should formalize its agreement with the Sheriff's Department regarding the sale of dive equipment.

II. Internal Controls

The concerns that were brought to our attention were related to the dive team. However, after reviewing documents and other information related to the dive team, more issues were raised about the Town's internal controls.

Budgets

1. Detailed Budgets

Disbursement budgets demonstrate the need for the amount of the tax levy. As a result of not approving an annual budget, insufficient documentation exists to provide accountability as to how tax levy funds are spent by the Town as a whole for the following year. Budgets are essential in establishing the constraints within which the Town must operate. All sources of receipts, including funds on hand, must be evaluated against planned disbursements to arrive at a final budget.

Our review of the Town Board minutes indicated that the budget process is limited to the Board approving the amount of taxes to be levied annually for each Town fund. The Town Board does not approve a detailed budget for each fund that includes all anticipated revenues and expenditures on a fund basis.

However, the Town Board asked the former Fire Chief to create a line-item budget solely for the Fire Department, which was done for 2005 and 2006. Based on our review, it is the Town's practice to delegate to its Fire Chief the responsibility to purchase items and services for the Fire Department within the Fire Department's budget.

A motion was approved at the August 8, 2006 Town Board meeting to have line item budgets in place by January 1, 2007 for all Town funds. We recommend that the Town Board prepare a proposed budget for the general Town operations for discussion and approval at the annual Town meeting. This would be in conjunction with setting the Town's levy and should include an estimate for all expected costs and the means to finance those costs, whether from levy dollars,

other receipts, or balances carried forward from the prior year. This will provide a more complete understanding to the electors when voting on the tax levy.

2. Budget to Actual

The Town Clerk-Treasurer prepares a monthly cash control statement, which is also provided to the Town Board. The Cash Control Statement lists the name of the different funds in the Town, each funds' beginning monthly cash balance, total receipts, total disbursements, ending cash balance, deposits in transit, outstanding checks, and total cash compared to the bank statement. No detailed budget is prepared by the Board, and therefore no monitoring of expenditures is performed.

Preparing budgets and monitoring budget to actual amounts on a regular basis provides a management tool to help ensure that money spent will not exceed taxes levied, other revenue, and amounts carried over from the previous year.²² Furthermore, it would allow the Town Board to adjust budgeted amounts, if necessary. It also allows the public to understand the activities and services undertaken by the Town and how Town funds are being used.

The Town has recently determined that it will use line item budgeting beginning in 2007. We recommend that the Town Clerk-Treasurer compare the actual revenues and expenditures for each fund against the approved budget and report this information to the Town Board on a monthly basis. We also recommend that the Town create a budget amendment policy. The policy should encompass when an amendment is necessary and the procedures for approval.

According to the Clerk-Treasurer, the former Fire Chief requested and received monthly budget to actual numbers for the Fire Department, based on the budget that he created. However, the Town Board does not receive budget to actual reports for any fund and/or department throughout the year.

If the Town Board monitored budget to actual numbers, they may have determined that the Fire Department overspent its budgeted expenditures in 2005 by over \$80,000, and by over \$45,000 just in the Fire Equipment line item alone. In addition, with budget amendments, the Fire Department would have needed to formally request the Town Board for a budget amendment to increase the Fire Equipment budget. However, when all revenue sources and the carryover from 2004 are included with the proceeds from the Town tax levy, the Fire Department had sufficient funds to cover its disbursements in 2005.

Purchasing

State law places procedural requirements on Town purchases according to the amount to be expended.²³ For the purchase of equipment or materials where the amount is under \$10,000, the

²² See Minn. Stat. § 365.43 (2005).

²³ Minn. Stat. § 471.345 (2004).

purchase can be made either by obtaining quotations or on the open market. For purchases where the amount is between \$10,000 and \$50,000, the purchase may be made either by using the sealed bid process or by direct negotiation by obtaining two or more quotations. All quotations must be kept on file for at least one year after they are received. Equipment purchases over \$50,000 require that sealed bids be solicited by public notice.

From our interviews with Fire Department members who participated in the purchase of the boat and trailer, we were told that quotes were obtained for that purchase. However, the quotes were not kept on file as required.

The Town may wish to adopt a policy clarifying when bids or obtaining quotes is required. This will ensure that the Town is getting the best value for its money. The minimal requirements of state statutes must be followed for all contracts. The Town would, however, be free to adopt a contracting policy that would require bids or quotes for purchases under the threshold amounts set out in the state law if the Board believes it would be prudent to do so.

Claims

1. Town Practice

We found that the Town does not have written procedures addressing its claims process. Therefore, our understanding of the claims process is based upon our review of Town documents and interviews with staff. We found that it was common practice for Town employees to make Town purchases with their personal credit cards, and then get reimbursed by the Town. According to the Clerk-Treasurer, this practice was used by staff in the Fire Department, as well as the Maintenance Department, and also by the Clerk-Treasurer. The Town does not have a Town credit card. Therefore, various purchases, such as online purchases that require use of a credit card, necessitate use of a personal credit card.

We primarily focused on the claims process for the dive team and found that the purchases and request for services are generated by the Fire Department. We found that the former Fire Chief and staff purchased items and training for the department, including the dive team. The Fire Department would submit documentation to the Clerk-Treasurer for payment to vendors or reimbursements to Fire Department members. The former Fire Chief would also communicate where disbursements should be accounted for on the line item budget.

2. Underlying Documentation

Detailed documentation was not consistently provided as support for submitted claims. There were instances where personal credit card statements were provided, but not the detailed original receipt. The explanation offered for this was that in some cases receipts were unavailable or the purchases were made online with no receipts given.

Other claims for reimbursement were paid to the former Fire Chief with only copies of personal checks written to individual Fire Department members submitted, and no invoice, reference, or other documentation included as to the underlying expenditures. This was explained as a timing issue, with individuals requesting reimbursement before they could be reimbursed by the Board at its monthly meeting.

There were instances where detailed documentation was provided, but it appeared that only a portion of the items included on the documentation may have been requested as reimbursement. Based on the underlying documentation, it was difficult to identify for which particular items reimbursement was being sought. It could have been that some of the items purchased were personal and not being charged to the Town. In addition, the City and Town Accounting System (CTAS) claim form lumped amounts together so it was difficult to determine where individual charges were coded.

The Town has not required a reimbursement request form for reimbursements. The Clerk-Treasurer reported that she is currently working on a reimbursement request form that would accompany supporting documentation when claims for reimbursement are submitted to the Town. A signed reimbursement request form would clarify specifically what claimants are seeking to be reimbursed for when the underlying supporting documentation include multiple purchases. To assist the Town with this matter, we provided the Clerk-Treasurer with a copy of our employee reimbursement request form.

3. New Town Policy and Recommendations

In May 2006, the Town Board approved a purchase order system, whereby expenditures over \$300 will require prior approval by a quorum of the Board.²⁴ This system applies to all Town departments.²⁵ Pre-approval of purchases will allow the Board to monitor expenditures and will also give the Board the opportunity to consider whether it would be beneficial to solicit bids or obtain quotes for certain purchases. After a purchase is approved, a formal purchase order is generated, the purchase is made, and the Town is subsequently billed. For purchases under \$300, it appears the Town is still using the practice of reimbursement to employees for some Town expenditures.

Minutes from the May 2, 2006 Town Board meeting indicate that purchases over \$300 can be authorized by calling three Town Board members for their authorization. However, communication about official Town business through telephone conversations by a quorum of the Board would not be in compliance with the Open Meeting Law.²⁶ We recommend that the Town amend this policy to avoid non-compliance with the Open Meeting Law.

²⁴ This system, instituting a purchase order system for purchases over \$300, was passed by a motion made during the May 1, 2006 Town Board meeting. The minutes from that meeting indicate that “this will ensure better understanding by the Town Board of what is being spent.”

²⁵ Baldwin Township Regular Meeting minutes, May 2, 2006.

²⁶ See, *Moberg v. Independent School Dist. No. 281*, 336 N.W.2d 510, 518 (Minn. 1983).

We recommend that all underlying documentation be submitted to the Clerk-Treasurer as custodian of records, and that they contain all applicable account coding. We also recommend, for technical purchases, that staff adequately identify and explain the item on the supporting documentation. This would also allow the Clerk-Treasurer to confirm that the coding directive by the Fire Department is appropriate and not in error. This would also have been helpful when we attempted to compare the list of dive team items to the items purchased, as they were not matching. Finally, we recommend that payment of claims for Town purchases be made directly to vendors through the purchase order system whenever possible.

Additionally, we discourage the use of personal credit cards for Town purchases. The Town may wish to consider obtaining a Town credit card. Towns have authority to obtain and use credit cards, but they must be diligent in implementing proper internal controls, including at a minimum the following:²⁷

- Identifying the employees and officers who are authorized to make purchases on behalf of the Town and are eligible to use the credit card;
- Identifying the type of purchases that are to be made with the credit card;
- Setting up a review process for all purchases made with the credit card;
- Prohibiting the use of a Town credit card for personal purchases;
- Setting the maximum amount allowed per transaction; and
- Requiring supporting documentation.

Review of Claims by Town Board

Claims against a town must be in writing and itemized when they can be itemized in the ordinary course of business.²⁸ Once verified, the board receives and considers the claim, and allows or disallows the claim.²⁹ All claims paid should be in writing or in the form of an electronic transaction record, and should be properly itemized. Each claim or invoice should be fully reviewed by the Board for completeness, appropriateness and accuracy prior to being paid. This enables the Town Board to more easily determine that the claim is valid, reasonable, and necessary.

Again, since the Town does not have a written claims approval policy, our understanding of this process comes primarily from our review of documents and interviews with Town staff and officials. The Clerk-Treasurer prepares a spreadsheet listing all claims for each regular Board meeting. The spreadsheet listing contains the check number, payee, amount, purpose, and the fund charged for the disbursement. Board members generally review and sign the spreadsheet listing. According to the Clerk-Treasurer, CTAS claim forms, along with supporting documentation, are provided in a folder at meetings so that they are available for review. We were informed by Board members and the Clerk-Treasurer that the claim forms and supporting

²⁷ Minn. Stat. § 471.382 (2004).

²⁸ Minn. Stat. § 471.38, subd. 1 (2004).

²⁹ Minn. Stat. § 471.40 (2004).

documents are only reviewed if there is a question. After the Board approves the claims list, the Board Chair signs the checks for the approved claims.

The spreadsheet listing of claims identified payments to the former Fire Chief as “reimbursements,” but did not detail the purpose of the reimbursements.

We recommend Town Board members review all claims and supporting documents. Claims must be itemized and supported by detailed underlying documentation. If the Board had reviewed all claims and supporting documentation, they may have discovered that adequate supporting documents were not consistently provided by the Fire Department to the Clerk-Treasurer for dive equipment.

The Town Board is also the Board of Audit. The Board of Audit meets yearly to audit and settle all charges against the Town.³⁰ It may also meet at other times to audit and settle charges against the Town.³¹ The Board of Audit is “to examine and audit every account presented against the town, and to endorse and state on it the amount allowed and disallowed.”³² No allowance shall be made on any account which does not specifically give each item, with its date, amount, and nature.”³³

The *Manual on Town Government* prepared by the Minnesota Association of Townships states that, “many of the duties that must be performed at the annual board of audit . . . are a culmination of the activities performed by the Board at each regular meeting, when it reviews and approves claims for payment.” However, this is not the case for the Town. The Clerk-Treasurer provides a spreadsheet containing a list of checks for approval each month, and the claims and supporting documentation are available for review, but the Town Board does not review all the claims.

The *Manual on Town Government* states that if claims are reviewed monthly, it is not necessary to reexamine each claim in detail at the annual Board of Audit. It recommends then, at the annual Board of Audit, that the Board “randomly select claims to audit in detail to make sure everything is in order.”

Since the Town Board of Supervisors is not reviewing all claims and supporting documents on a monthly basis, the annual Board of Audit should review all claims and supporting documents. However, both at regular Board meetings and at Board of Audit meetings, the Board is reviewing only the claims listings. We recommend that the Town Board review all claims and supporting documents submitted for payment. If this is done monthly when the claims are presented for payment, then the annual Board of Audit can randomly select claims to audit rather than review all claims.

³⁰ Minn. Stat. § 366.20 (2004).

³¹ *Id.*

³² Minn. Stat. § 366.21 (2004).

³³ *Id.*

Conclusion

Again, we recommend that the Town formalize a detailed agreement with the County for the sale of dive equipment. We also recommend that the Town adopt policies addressing the internal control issues raised above.

The State Auditor's Office believes that the Minnesota Association of Townships is a good source for towns. Therefore, we encourage the Town Board members and the Clerk-Treasurer to continue training and working with the Minnesota Association of Townships regarding these matters.

We request that the Town respond to this Office in writing once the recommendations have been adopted. The State Auditor's Office will review these issues during the scheduled 2006 audit that this Office will be conducting of the Town.

We thank the Town, including Fire Department Staff, Board members, and the Clerk-Treasurer for their assistance during our review. If you have any additional questions or concerns, please feel free to contact Kathy Docter at (651) 282-2388 or Brooke Bordson at (651) 296-6271.

Sincerely,

Carla Heyl
Deputy State Auditor/General Counsel

Cc: Board of Supervisors
Ms. Cathy Steven, Town Clerk-Treasurer
Minnesota Township Association