



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA

OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

TOWN OF ATKINSON

Investigative Report

April 26, 2010

PUBLIC VERSION

The Office of the State Auditor (“OSA”) received a request from the Town of Atkinson (“Town”) Board to perform agreed-upon procedures on the accounting procedures, practices, and records related to Town disbursements for the year ended December 31, 2009.¹ During the course of performing the agreed-upon procedures, the OSA found evidence disclosing possible malfeasance in office by a former Town Board supervisor.

Based upon the OSA’s review of claims submitted in 2009, it appears that a former Town Board supervisor presented false claims for reimbursement payments to the Town, and was paid a total of \$436.40 for those claims. In addition, the OSA is unable to confirm the validity of an additional \$300 in reimbursement payments made to the former supervisor.

This report summarizes our findings regarding these claims. In compliance with Minn. Stat. § 6.51, this report is being filed with the Carlton County Attorney to institute such proceedings as the law and the public interest require. The Town will be provided with a separate report on the agreed-upon procedures performed by the OSA.

I. Background

The Town Board of Supervisors is comprised of three supervisors. The former supervisor was in office during the OSA’s 2009 period of review. The former supervisor’s resignation was accepted by the Town Board at its February 8, 2010, meeting.²

Town Board supervisors submitted claim forms when they performed work for or incurred expenses on behalf of the Town.³ Supporting documentation was submitted for

¹ See Minn. Stat. § 6.55. The Town Board voted to request an audit by the OSA at its November 18, 2009, meeting. See Town Board meeting minutes for November 18, 2009. In a letter dated February 3, 2010, the OSA confirmed its agreed-upon procedures engagement.

² See Town Board meeting minutes for February 8, 2010.

³ See Minn. Stat. § 367.05 (“The town board shall set the compensation of supervisors In addition, supervisors . . . shall be entitled to mileage for the use of their own automobile at a rate to be determined by the town board for necessary travel on official town business.”). See also Minn. Stat. § 471.665 (mileage allowances).

some of the claim forms. The claims were considered for payment by the Town Board at Town Board meetings.

The OSA limited its review to calendar year 2009. The OSA obtained and reviewed copies of the 2009 claim forms and supporting documentation submitted to the Town, the Town Board meeting minutes for 2009 and February 2010, and Town bank statements for 2009.⁴ The OSA also contacted an alleged vendor identified on one of the claims and granting agencies identified on another claim.

II. Claims for Architectural Services

According to the Town Board's May 11, 2009, meeting minutes, a motion was passed to have blueprints created for a new Town Hall if the cost would be under \$750.⁵ The former supervisor recommended that the Town use Dave Johnson from McGregor for the blueprints.⁶

The OSA reviewed a copy of claim form number 2752 dated August 10, 2009, from the former supervisor seeking \$250 as reimbursement for a deposit on blueprints. The OSA also reviewed a copy of claim form number 2758, also dated August 10, 2009, from the former supervisor seeking \$70.40 as reimbursement for 128 miles identified as "Mileage to McGregor."⁷ Payment for the claims was approved at the August 10, 2009, Town Board meeting, and the claim was paid to the former supervisor with Town check numbers 2752 and 2758, dated August 10, 2009.⁸

The OSA also reviewed a copy of claim forms 2771 and 2773, both dated October 12, 2009, from the former supervisor seeking \$66 (claim form 2771) as reimbursement for 120 miles identified as round trip mileage to "Meet in McGregor w/ Arch." on July 27, 2009, and \$50 (claim form 2773) as pay for attending the July 27 meeting in McGregor.⁹

⁴ For 2009, the Town provided the OSA with Town Board meeting minutes for February through December. It is the OSA's understanding that the Town Board did not hold a meeting in January 2010. The OSA also reviewed the Board of Canvas and the Board of Qualifications meeting minutes for March 2007, the Town Board meeting minutes for April 2007 and May 2008, and the Annual Town meeting minutes for March 2008 and 2009.

⁵ See Town Board meeting minutes for May 11, 2009.

⁶ *Id.* Mr. Johnson told the OSA that he had drawn plans for the former supervisor's home about two years earlier.

⁷ The claim form also sought reimbursement for 24 miles for "Road Review," for a total claim form amount of \$83.60 (128 miles x \$0.55/mile = \$70.40; 24 miles x \$0.55/mile = \$13.20; \$70.40 + \$13.20 = \$83.60). The Town Board set the mileage reimbursement rate at the IRS rate. See Town Board meeting minutes for April 13, 2009.

⁸ See Town Board meeting minutes for August 10, 2009.

⁹ 120 miles x \$0.55/mile = \$66.00. The Town Board set the compensation to be paid to Town supervisors for attendance at meetings outside the township at \$50. See Town Board meeting minutes for April 9, 2007, and May 12, 2008. Claim form 2773 was originally numbered as claim form 2768. See Town Board meeting minutes for October 12, 2009.

Payment for the claims was approved at the October 12, 2009, Town Board meeting, and the claims were paid to the former supervisor with Town check numbers 2771 and 2773, dated October 12, 2009.¹⁰

The claims are reflected in the following chart:

Former Supervisor's Claims for Architectural Services					
Claim Number	Date of Claim	Claim Amount	Purpose of Claim	Date Claim Approved & Date of Check	Town Check Number
2752	8/10/09	\$250.00	"Reimbursement for Deposit on Blue Prints"	8/10/09	2752
2758	8/10/09	\$70.40	"Mileage to McGregor" (128 miles)	8/10/09	2758
2771	10/12/09	\$66.00	"July 27 Meet in McGregor w/ Arch." (120 miles)	10/12/09	2771
2773	10/12/09	\$50.00	"July 27 Meet in McGregor w/ Arch." ("Payroll Sheet")	10/12/09	2773
Total:		\$436.40			

At the February 22, 2010, Town Board of Audit meeting, concerns were raised about these claims.¹¹ For example, the vendor's name on the invoice supporting the claim differed slightly from the name of Dave Johnson's business, and the McGregor address listed on the invoice was not the address for Mr. Johnson's business. In addition, the OSA noted that the round trip mileage amounts appeared to be inflated.¹²

The OSA was provided with a copy of the documentation submitted to the Town as support for the \$250 claim. The documentation consisted of an invoice and a receipt. The OSA submitted a copy of the documentation to Mr. Johnson who told the OSA that

¹⁰ See Town Board meeting minutes for October 12, 2009. Both of the claim forms included additional reimbursement claims. Town check number 2771 in the amount of \$420.20 was for the total claim form amount; Town check number 2773 in the amount of \$986.95 was for the total claim form amount (\$1,055.00 - \$68.05 in payroll deductions = \$986.95).

¹¹ See Town Board of Audit meeting minutes for February 22, 2010.

¹² Round trip mileage was 91 miles (45.45 miles each way) according to a MapQuest search performed by the OSA, using the zip codes for the former supervisor and the vendor contained on the invoice submitted in support of the claim.

the documentation was not from him. Specifically, Mr. Johnson told the OSA that the business name and address on the invoice were incorrect, that the invoice did not contain his company logo, and that he did not issue separate receipts to his customers. Mr. Johnson also noted that the signature on the receipt was not his signature.

Mr. Johnson told the OSA that he did not draw plans or blueprints for the Town, and he did not receive \$250 from the former supervisor for work performed for the Town.¹³ Mr. Johnson told the OSA that he met only once with Town representatives at a meeting held at the former supervisor's home.¹⁴ Mr. Johnson also provided the Town with a document dated January 8, 2010, in which he stated that he only met once about the Town's new Town Hall, he did not draw plans for the Town, and he did not charge the Town for his services.

The OSA was provided with copies of an email that Mr. Johnson said he received from the former supervisor.¹⁵ The email is dated February 5, 2010, from the former supervisor, and was sent from an email address identified as belonging to the former supervisor. In the email, the writer stated in part:

Hey there Dave, . . . I may have to swallow some crow or try to wiggle my way out of this, I did turn a bill for your services and take the money for it -- How or why I am not sure . . . I may be up a creek on this one . . . I have to admit Dave I am embarrassed to even involve you in this, please accept my apology, none of this was by any means meant to be dectieful [*sic*] or stealing, as you know I had every intention of getting prints from you and doing this project as fast as we could. . . . I will send you the date of our meeting as soon as I figure it out, thanks again Dave, [the former supervisor]

The former supervisor's resignation was accepted by the Town Board at its February 8, 2010, meeting.¹⁶ According to the minutes of the Town Board of Audit's February 22, 2010, meeting, the Town Clerk had requested additional information from the former supervisor regarding her meeting and mileage expenses submitted in October, but the former supervisor resigned.

¹³ The former supervisor apparently provided the Town Chair with a set of plans/blueprints when she resigned. See Town Board of Audit meeting minutes for February 22, 2010.

¹⁴ The date of the meeting at the former supervisor's home is unclear from the information obtained by the OSA. Mr. Johnson told the OSA he thought the meeting was in approximately March 2009. The Town Clerk reported that she attended the meeting with Mr. Johnson at the former supervisor's home in June 2009. See Town Board of Audit meeting minutes for February 22, 2010. The former supervisor's claim form number 2755, dated August 10, 2009, sought payroll reimbursements for the months of April, May and June 2009, and included a claim for \$20 for a "building meeting" on June 12, 2009.

¹⁵ The OSA received copies of the email from Mr. Johnson and from the Town.

¹⁶ See Town Board meeting minutes for February 8, 2010.

Based upon the OSA's review, it appears that \$436.40 in claims submitted to the Town were false.¹⁷

III. Claims for Grant Application Fees

The OSA reviewed a copy of claim form number 2770 dated October 12, 2009, from the former supervisor seeking \$300 as reimbursement for three grant application fees. More specifically, the claim form listed a \$30 application fee for a "community development" grant, a \$30 application fee for a "disaster supplement" grant, and a \$240 application fee for an "energy commission" grant. At the October 12, 2009, Town Board meeting, the former supervisor stated that she had applied for three grants.¹⁸ Payment for the claim was approved, and the claim was paid to the former supervisor with Town check number 2770 dated October 12, 2009.¹⁹

The grant application fees were questioned at the February 22, 2010, Town Board of Audit meeting. Specifically, a Town supervisor stated that no fee is charged for federal grant applications. In addition, the Town supervisor stated that the Town did not have a DUNS number, which he claimed was required for federal grants.²⁰

The OSA reviewed the documentation submitted to the Town as support for the claim. The documentation consisted of two confirmation pages referencing two \$30 charges to a credit card and a receipt for a \$240 order. The Town told the OSA that it did not have copies of the grant applications. The OSA was unable to verify the validity of the claim.

The supporting documentation for the community development grant application fee was dated September 15, 2009, and showed a \$30 charge to a credit card for a grant identified by funding opportunity number FR-5300-N-18B. The OSA located a federal Community Development Technical Assistance grant from the U.S. Department of Housing and Urban Development ("HUD") with funding opportunity number FR-5300-N-18B.²¹ The OSA contacted the Minneapolis office of HUD and was informed that HUD had not yet made a formal award announcement for this grant.²² As a result, HUD said it would not

¹⁷ See, e.g., Minn. Stat. § 609.465 ("Whoever, with intent to defraud, presents a claim or demand, with knowledge that it is false in whole or in part, for audit, allowance or payment to a public officer or body authorized to make such audit, allowance or payment is guilty of an attempt to commit theft of public funds and may be sentence accordingly.").

¹⁸ See Town Board meeting minutes for October 12, 2009. According to the minutes, the former supervisor also said that she was trying to obtain a structural grant to pay for 90% of the building cost. According to the meeting minutes for the Town Board's March 11, 2008, Annual Meeting, the Town's Building Committee decided in February 2008 to apply for grants to build a new Town Hall.

¹⁹ See Town Board meeting minutes for October 12, 2009. According to the claim form, funds from the Town's building fund were used to pay the claim.

²⁰ See Town Board of Audit meeting minutes for February 22, 2010.

²¹ The HUD grant is identified as CFDA No. 14.239 – HOME Investment Partnerships Program.

²² The application date for the HUD grant closed on October 21, 2009.

verify whether an application for this grant had been made by the Town. However, HUD reported that this was a technical assistance grant, and a small local unit of government would not typically be eligible for the grant. HUD informed the OSA that it does not charge a fee for a federal grant application.

The supporting documentation for the disaster supplement grant application fee was also dated September 15, 2009, and showed a \$30 charge to a credit card for a grant identified by funding opportunity number EDA10012008DISASTERSUPPLEMENTAL. The OSA located a U.S. Department of Commerce, Economic Development Administration (“EDA”) grant entitled Supplemental Appropriations Disaster Relief Opportunity with that funding opportunity number.²³ The OSA contacted the Chicago regional office of the EDA and was informed that the EDA had no record that it received a grant application from the Town for disaster relief funding. The EDA informed the OSA that it does not charge a fee for a federal grant application.

The supporting documentation for the energy commission grant application fee was Receipt #170002115865 for order number MG9HZHS36B, dated September 17, 2009. The receipt showed a \$240 order for one “Energy Efficiency Small Grants Program at the Energy Commission.” The OSA was unable to locate a grant for an “Energy Efficiency Small Grants Program” issued by an “Energy Commission.”²⁴ The OSA was also unable to confirm whether the receipt was for a grant application or for some other item.

The OSA recommends that law enforcement investigate further, including an interview of the former supervisor, to clarify to whom and for what purpose the grant applications were allegedly submitted, and to whom the application fees were allegedly paid.²⁵

IV. Conclusion

Based upon the Office of the State Auditor’s review of claims submitted to the Town of Atkinson in 2009, it appears that a former supervisor presented false claims to the Town for reimbursement payments related to architectural services, and was paid a total of \$436.40 for those claims. In addition, the OSA is unable to confirm the validity of an additional \$300 in reimbursement payments the Town made to the former supervisor for grant application fees.

²³ The EDA grant was posted on October 1, 2008 and has been modified on two occasions. The EDA grant is identified as CFDA No. 11.307 – Economic Adjustment Assistance.

²⁴ The State of California has an Energy Commission. In Minnesota, the Office of Energy Security at the Department of Commerce handles energy matters and issues grants and loans.

²⁵ While many government entities do not charge a grant application fee, the OSA was unable to eliminate the possibility that the former supervisor may have paid a private grant writing organization to apply for the grants on the Town’s behalf.