

# STATE OF MINNESOTA

## Office of the State Auditor



**Patricia Anderson**  
**State Auditor**

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**TOWN OF ALBANY**  
**STEARNS COUNTY, MINNESOTA**

**YEAR ENDED DECEMBER 31, 2003**

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

**Year Ended December 31, 2003**



**Audit Practice Division  
Office of the State Auditor  
State of Minnesota**

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

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**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

ORGANIZATION  
DECEMBER 31, 2003

	Term of Office	
	From	To
<hr/> <u>Elected Positions</u> <hr/>		
Town Board of Supervisors		
Dan Dobmeier	March 2003	February 2006
Jeff Schwinghamer	March 2004	February 2005
Larry Mareck	March 2001	February 2004
Clerk/Treasurer		
Judith Fischer	March 2000	February 2004
<hr/> <u>Appointed Position</u> <hr/>		
Ordinance Administrator		
Milan Foster		Indefinite

## **INDEPENDENT AUDITOR'S REPORT**

Town Board of Supervisors  
Town of Albany

We have audited the statement of receipts, disbursements, and changes in cash balance and the related statements of classification of receipts and disbursements of the Town of Albany, Stearns County, Minnesota, as of and for the year ended December 31, 2003, as listed in the table of contents. These financial statements are the responsibility of the Town of Albany's management. Our responsibility is to express an opinion on these financial statements based on our audit.

Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

The Town of Albany's accounting records are not sufficient to support maintaining cash balances by its funds and, therefore, all the Town's receipts and disbursements are reported in the General Fund.

As described in Note 1.B. to the financial statements, the Town of Albany's policy is to prepare its financial statements on the cash basis of accounting. This practice differs from accounting principles generally accepted in the United States of America. Accordingly, the accompanying financial statements are not intended to be present financial position and results of operations in conformity with accounting principles generally accepted in the United States of America.

In our opinion--except for the effect of such adjustments, if any, as might have been determined to be necessary had the Town of Albany's accounting records been sufficient to support cash balances by its funds--the financial statements referred to above present fairly, in all material respects, the cash balance of the Town of Albany at December 31, 2003, and the receipts and disbursements for the year then ended in conformity with the cash basis of accounting described in Note 1.B. to the financial statements.

PATRICIA ANDERSON  
STATE AUDITOR

GREG HIERLINGER, CPA  
DEPUTY STATE AUDITOR

End of Fieldwork: December 17, 2004

## **FINANCIAL STATEMENTS**

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

***EXHIBIT A***

**STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CHANGES IN CASH BALANCE  
FOR THE YEAR ENDED DECEMBER 31, 2003**

<b>Cash Balance - January 1</b>	\$	299,695
<b>Additions to Cash</b>		
Receipts, Exhibit A-1		124,438
<b>Deductions from Cash</b>		
Disbursements, Exhibit A-2		<u>(328,582)</u>
<b>Cash Balance - December 31</b>	<b>\$</b>	<b><u>95,551</u></b>



**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

*EXHIBIT A-1*

**STATEMENT OF CLASSIFICATION OF RECEIPTS  
BUDGET AND ACTUAL  
FOR THE YEAR ENDED DECEMBER 31, 2003**

	<b>Budget</b>	<b>Actual</b>	<b>Variance Favorable (Unfavorable)</b>
<b>Taxes</b>			
Real and personal property	\$ 224,798	\$ 69,400	\$ (155,398)
<b>Intergovernmental revenue</b>			
Federal, state grants/shared revenue			
Highway user gas tax	\$ -	\$ 14,106	\$ 14,106
Homestead credit	-	24,637	24,637
Mobile home homestead credit	-	22	22
Agricultural credit	-	9,067	9,067
<b>Total intergovernmental revenue</b>	<b>\$ -</b>	<b>\$ 47,832</b>	<b>\$ 47,832</b>
<b>Charges for services</b>	<b>\$ -</b>	<b>\$ 1,133</b>	<b>\$ 1,133</b>
<b>Miscellaneous revenues</b>			
Annexation of properties	\$ -	\$ 1,400	\$ 1,400
Interest earnings	-	4,673	4,673
<b>Total miscellaneous revenues</b>	<b>\$ -</b>	<b>\$ 6,073</b>	<b>\$ 6,073</b>
<b>Total</b>	<b>\$ 224,798</b>	<b>\$ 124,438</b>	<b>\$ (100,360)</b>

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

*EXHIBIT A-2*

**STATEMENT OF CLASSIFICATION OF DISBURSEMENTS  
BUDGET AND ACTUAL  
FOR THE YEAR ENDED DECEMBER 31, 2003**

	Budget	Actual	Variance Favorable (Unfavorable)
<b>General government</b>			
Supervisors			
Per diem - meetings		\$ 2,616	
Wages		1,106	
Travel		90	
Clerk/Treasurer			
Per diem - meetings		850	
Salary		3,950	
Supplies		194	
Travel		37	
Elections			
Wages		296	
Supplies		636	
Ordinance Administrator			
Salary		2,752	
Supplies		188	
Travel		20	
Legal			
Contracted services		6,353	
Other			
Insurance		1,146	
Fees to Stearns County		88	
Donations		264	
<b>Total general government</b>	\$ 35,200	<b>\$ 20,586</b>	\$ 14,614
<b>Road maintenance</b>			
General maintenance		\$ 69,279	
Road construction		204,407	
Snow removal		3,767	
<b>Total road maintenance</b>	164,376	<b>\$ 277,453</b>	(113,077)
<b>Fire protection</b>			
Contracted services	25,222	<b>\$ 30,543</b>	(5,321)
<b>Total</b>	<b>\$ 224,798</b>	<b>\$ 328,582</b>	<b>\$ (103,784)</b>

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

NOTES TO THE FINANCIAL STATEMENTS  
AS OF AND FOR THE YEAR ENDED DECEMBER 31, 2003

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1. Summary of Significant Accounting Policies

A. Financial Reporting Entity

The Town of Albany was established in May 1858 as an organized township having the powers, duties, and privileges granted towns by Minn. Stat. ch. 365. The Town of Albany is governed by a three-member Board of Supervisors who are elected for three-year terms. A chair is elected annually by the Board members at the reorganization meeting in March of each year.

B. Basis of Accounting

The accounts of the Town of Albany are maintained on the cash basis. The Statement of Cash Receipts, Disbursements, and Changes in Cash Balance; the Statement of Classification of Receipts; and the Statement of Classification of Disbursements are prepared on the cash basis. Receipts are recorded when cash is received, and disbursements are recorded when order-checks are issued. These statements do not reflect accounts receivable, accounts payable, or other accrued items and, therefore, are not presented in accordance with generally accepted accounting principles.

C. Budgets

Budgets are adopted and presented on the cash basis. The Town's electors vote to authorize the amount of money to be raised for a given year through tax levies for Town purposes in accordance with Minn. Stat. §§ 365.10 and 365.431. This vote occurs at the Town's annual meeting in March. At present, the Town does not budget any other expected sources of receipts, such as charges for services or grants.

D. Fixed Assets

General fixed assets are recorded as disbursements when paid. No records are maintained.

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

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2. Stewardship, Compliance, and Accountability

A. Spending in Excess of Approved Levy

The following activities had disbursements in excess of budget for the year ended December 31, 2003:

	<u>Disbursements</u>		<u>Budget</u>		<u>Variance</u>
Road maintenance	\$ 277,453	\$	164,376	\$	113,077
Fire protection	30,543		25,222		5,321

B. Unclaimed Town Monies

The Town currently has several amounts held by other governmental agencies because it has failed to claim them. The Town was sent six checks between January 2003 and March 2004 totaling \$158,628 from Stearns County. These checks are unaccounted for by the Town and have not been claimed or deposited. If not claimed within two years, these checks will be turned over by Stearns County to the Unclaimed Property Division of the Minnesota Department of Commerce. The state already has two other checks held at the Unclaimed Property Division, totaling \$72,372, which have not been claimed or deposited by the Town. Because the Town's financial statements are prepared on the cash basis, the financial statements do not reflect these uncollected amounts.

3. Deposits and Investments

Minn. Stat. ch. 118A authorizes the Town to deposit its cash and to invest in certificates of deposit in financial institutions designated by the Town Board. At December 31, 2003, the book value of the Town's cash and deposits totaled \$95,551. The bank value of these deposits was \$96,334. Minnesota statutes require that all Town deposits be covered by insurance, surety bond, or collateral.

Following is a summary of the insurance and collateral at December 31, 2003, as it relates to the Town's custodial credit risk of its deposits.

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

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3. Deposits and Investments (Continued)

	<u>Per Bank</u>
Covered Deposits	
Insured or collateralized with securities held by the Town or its agent in the Town's name	\$ 96,334
Collateralized with securities held by the pledging financial institution's agent in the Town's name	<u>-</u>
Total covered deposits	\$ 96,334
Uncollateralized	<u>-</u>
Total	<u>\$ 96,334</u>

At numerous times during the year ended December 31, 2003, the Town's deposits exceeded the coverage provided by depository insurance. No surety bonds or collateral were pledged to cover the Town's deposits in excess of depository insurance.

4. Property Tax Receipts

During the month of March, the Town levies its property tax for the subsequent year. The tax is billed to individual property owners annually and, for the most part, is due and payable in January, but may be paid in two equal installments on or before May 15 and October 15 without penalty.

Stearns County is the collecting agency for the levy and remits the collections to the Town three times per year. The property taxes are receipted when they are received.

5. Risk Management

The Town of Albany is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to Town officers and employees; and natural disasters. Risks of loss were not covered by the purchase of commercial insurance. There were no losses reported in the current year.

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

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6. Significant Contingencies and Other Items

The Town of Albany has not withheld, paid, or remitted payroll-related taxes to the state and federal governments, nor has the Town issued IRS forms W-2 to employees or 1099 forms to individuals and non-corporations.

Penalties and interest, if any, which the Internal Revenue Service and the Minnesota Department of Revenue may levy upon the Town, have not been determined.

**TOWN OF ALBANY  
STEARNS COUNTY, MINNESOTA**

**SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2003**

**I. INTERNAL CONTROLS**

03-1 Segregation of Duties

Due to the limited number of office personnel within the Town of Albany, segregation of the accounting functions necessary to ensure adequate internal control is not possible. This is not unusual in smaller entities. The Town Board of Supervisors should constantly be aware of this condition and realize that the concentration of duties and responsibilities in a limited number of individuals is not desirable from an accounting point of view.

Besides having an awareness of the risks associated with limited segregation of duties, the Town Board has a duty and responsibility to monitor and provide oversight for the Town's financial and accounting activities. This is especially critical when a lack of segregation of duties is combined with the significant deficiencies in accounting records and procedures addressed in other findings in this report.

We recommend the Town Board of Supervisors:

- know the expected schedule of tax payments and ensure those checks have been received and deposited,
- compare tax transmittal forms from Stearn's County with entries recorded in the appropriate funds' accounting records,
- compare receipts with bank deposits,
- review bank reconciliations and compare amounts with the general ledger cash balance,
- verify that interest earnings are being recorded, and
- compare entries recorded in the checkbook and disbursement ledger with bills approved.

### 03-2 General Accounting System

Accounting records for the Town of Albany are not maintained with sufficient information to adequately monitor and report its activity and cash balances. Accounting records are limited to the following:

- claim forms attached to paid invoices,
- checkbook and canceled checks,
- manual disbursement ledger noting checks paid categorized by activity,
- bank deposit slips with receipt remittance advices attached, and
- bank statements.

Receipts are not issued for Town collections, and a receipt ledger is not maintained. A pre-numbered receipt documents the existence and provides a chronological listing of all collections made. If a check received is lost or unrecorded, a duplicate receipt can serve as the basis for requesting a payment to be re-issued or to record a receipt in the Town's ledger. Each receipt should be recorded and classified by type in a receipt ledger.

A chart of accounts is not used. Both the receipt and disbursement ledgers should classify activity by fund and type of receipt or disbursement.

A cash book balance is not maintained. On a monthly basis, the ending cash book balance should be supported and identified based on the beginning cash book balance plus receipts and less disbursements as recorded in the accounting records.

The *Accounting Manual for Small Cities and Towns in Minnesota* includes procedures and forms to assist the Town in establishing accounting records that can provide financial information concerning classified receipts and disbursements, comparisons to budget, and cash balances. The information allows for immediate reference of ledger accounts and preparation of interim or year-end financial statements. The system can be computerized readily using the City and Township Accounting System (CTAS) developed by the Office of the State Auditor (OSA). This system provides detailed ledgers for receipts and disbursements. It also includes a payroll function and links to the annual state reporting form required by the OSA. The system is offered at no charge, and the OSA provides training and ongoing assistance as required.

Whether accounting records are maintained in a manual or computerized form, the Town of Albany should immediately implement the following recommendations:



- Duplicate, pre-numbered receipts should be used for all collections.
- A chart of accounts should be established.
- A receipt ledger classifying each receipt by account and fund should be maintained.
- A disbursement ledger classifying each disbursement by account and fund should be maintained.
- A cash book balance should be maintained.

### 03-3 Bank Reconciliations

Bank accounts are not reconciled. The lack of sufficient accounting records and identification of a cash book balance prevents any reconciliation process.

We recommend the bank balance be reconciled to the balance in the Town's cash book on a monthly basis. As part of this process, checks outstanding for more than one year should be investigated to determine why they remain outstanding. If the payee does not cash the check or requests a duplicate, the old check should be canceled and returned to the Town fund from which it was issued. The Town should comply with Minn. Stat. § 345.38 which provides that intangible personal property, including outstanding checks, held for an owner by a political subdivision is presumed abandoned if it has remained unclaimed by the owner for more than three years. Funds unclaimed after three years must be turned over to the State of Minnesota, in accordance with Minn. Stat. §§ 345.38 -.43. Bank reconciliations should be reviewed by the Town Board or one of its members.

### 03-4 Receipting and Depositing

Receipts are not deposited in the bank on a timely basis. In addition, substantial amounts of checks paid to the Town have not been receipted, recorded, or deposited at all.

During 2003, amounts collected by the Clerk/Treasurer were deposited months after receipt. Such delays increase the risk of loss and decrease the availability of the funds to earn interest or be used for disbursements.

Stearns County issued six checks, including three large tax settlements, to the Town that are unaccounted for. According to the Clerk/Treasurer, she never received these checks. Although the timing of tax settlement payments from the County to the Town is reasonably known, no follow-up by the Clerk/Treasurer took place when it should have been clear the checks had not been received. In May and November 2003, transfers totaling \$235,000 from the savings to the checking account had to be made to cover Town disbursements. The County sent letters in January and June 2004 notifying the Town of the outstanding checks. Even when we provided specific written instructions in August 2004 as to how to request that checks be reissued to the Town, no steps were taken to resolve the missing checks.

During the audit, we confirmed that these checks had been canceled by the County and, as of March 3, 2005, are still waiting to be claimed by the Clerk/Treasurer. We also found that the Town had two outstanding warrants being held by the Unclaimed Property Division of the Minnesota Department of Commerce. These two warrants also remain outstanding as of March 3, 2005. Uncollected monies of the Town total approximately \$231,000. This amount is more than the entire certified tax levy payable in 2003 of \$224,798.

We recommend the following:

- Immediate follow-up should occur if expected funds due to the Town are not received within a timely manner.
- Duplicate receipts should be prepared at the time collections are made.
- Receipts should be prepared for all cash inflow transactions, including interest on deposits.
- Receipt numbers should be documented on deposit slips and on the receipt ledger to ensure accountability for all funds and collections.
- All receipts should be recorded.
- All collections should be deposited promptly.
- Receipts recorded in the Town's accounting records should balance to bank deposits.
- Uncollected monies from the county and state should be claimed by the Town immediately and deposited into its accounts.

#### 03-5 Disbursement Documentation

Some of the Town's disbursements were not properly documented. Examples include:

- Mileage claims contain dollar amounts only. Purpose, destination, odometer readings, and actual miles driven are not documented.
- Postage, phone, and supply purchases reimbursed to staff are not supported by receipts.

Supporting documentation was never canceled to prevent duplicate payment.

We recommend the Town Board of Supervisors establish written policies regarding the proper support required for claims to be paid. A standard itemized mileage reimbursement form should be developed.

### 03-6 Voided Order-Check Forms

Some order-check forms had been written and appear to have been voided or canceled prior to their issuance. We were unable to locate these voided checks and were informed by the Clerk/Treasurer that she does not retain them. All checks, including voids, should be accounted for.

We recommend that the Clerk/Treasurer retain voided order-check forms. They should be canceled by voiding the face of the form and its stub to prevent any subsequent reuse and by destroying the signature area.

## II. COMPLIANCE

### 03-7 Payroll-Related Taxes, Withholdings, and Submissions

The Town of Albany pays wages to the Board of Supervisors and the Clerk/Treasurer. However, to our knowledge, the Town of Albany has never withheld, paid, or remitted payroll-related taxes to the state and federal governments, nor has the Town issued IRS Forms W-2 to employees or 1099 forms to individuals and non-corporations.

We recommend that the Town contact the Internal Revenue Service and the Minnesota Department of Revenue and inform them of the Town's failure to withhold, pay, or remit such taxes in the past. Any instructions provided should be followed to avoid or minimize the burden of penalties and interest.

We also recommend that the Town Board of Supervisors and the Clerk/Treasurer establish policies and procedures to ensure compliance with payroll-related requirements. Specific items to be addressed should include:

- requiring all Town employees and each member of the Board of Supervisors to complete IRS Form W-4 to determine correct amounts of withholding;
- withholding and remitting throughout the year the appropriate amount of payroll-related taxes to the state or federal government;
- issuing W-2's or 1099's, as appropriate, at the end of the calendar year.

### 03-8 Fund Accounting

Minnesota statutes require towns to establish and maintain separate funds. A town's general fund serves as its primary operating fund used to account for all receipts and disbursements not required to be accounted for in another fund. Towns may establish and maintain other

funds. If a town spends money from taxes to construct, improve, and maintain its roads, Minn. Stat. ch. 164 requires the town to establish and maintain a road and bridge fund to account for those activities.

The Town of Albany levies taxes for its general, road and bridge, and fire activities and maintains a manual disbursement ledger that notes checks paid categorized by these activities. However, the Town of Albany does not maintain a receipt ledger that classifies each receipt by account and by fund. In addition, separate cash balances by fund are not identifiable. Thus, proper fund accounting is not possible. For road and bridge activities, there is also noncompliance with the requirements of Minn. Stat. ch. 164. The lack of proper fund accounting records resulted in a qualification of our opinion on the Town's financial statements.

We recommend the Town establish and maintain the records necessary to permit the proper accounting of all its funds.

03-9 Annual Financial Audits

Minn. Stat. § 367.36 provides that if the offices of town clerk and treasurer are combined, and the Town's annual revenue is more than a specified amount, the Town Board shall provide for an annual audit of the town's financial affairs by the State Auditor or a public accountant in accordance with minimum audit procedures prescribed by the State Auditor. To our knowledge, the Town Board has never sought an audit of the Town's financial affairs. In fact, the OSA initiated this audit for the year ended December 31, 2003.

We recommend that as long as the Town has a combined Clerk/Treasurer and the Town's annual revenue is more than the specified amount, the Town Board ensure compliance with Minn. Stat. § 367.36 by providing for an annual audit of the Town's financial affairs.

03-10 Data Required to be Filed with the OSA

Minn. Stat. § 6.74 requires all local units of government provide annually to the State Auditor information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information deemed needful by the State Auditor. The data shall be supplied on forms prescribed by the State Auditor, and all public officials so called upon shall fill out properly and return promptly all forms so transmitted. The State Auditor annually sends a letter and reporting form to each town to facilitate uniform data collection. These financial reporting forms must be submitted to the State Auditor by March 1 following the Town's year-end.

The Town of Albany provided the required data to the State Auditor for the year ended December 31, 2003. However, our records indicate that this is the first required reporting submitted since at least as far back as 1996.

We recommend the Board ensure that the Town of Albany report its financial information to the State Auditor as required by Minn. Stat. § 6.74.

### 03-11 Annual Board of Audit

Minn. Stat. § 366.21 specifies the duties of the Board of Audit and requires the Board, in part, “to examine and audit every account presented against the town, and to endorse and state on it the amount allowed and disallowed. No allowance shall be made on any account which does not specifically give each item, with its date, amount, and nature.”

Claims are not reviewed by the Board of Audit. The *2003 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.” This is not the case for the Town of Albany. The Clerk/Treasurer provides a list of checks for approval each month, and the claims and supporting documentation are available for review, but the Town Board of Supervisors does not review the claims.

The Town Board of Supervisors must review and approve (or disallow) all claims submitted for payment. This should be done monthly when the claims are presented for payment. The *2003 Manual on Town Government* says that if claims are reviewed monthly, it is not necessary to re-examine each claim in detail at the annual Board of Audit. It recommends that, at the annual Board of Audit, the Board “randomly select claims to audit in detail to make sure everything is in order.”

### 03-12 Spending in Excess of the Levy

Minn. Stat. § 365.43 states that, “A town must not contract debts or spend more money in a year than the taxes levied for the year without a favorable vote of a majority of the town’s electors.” For 2003, the Town of Albany levied \$224,798 for general operations, road and bridge activities, and fire protection. Even when amounts received from other sources are added to these levy amounts, the total was exceeded by the Town’s disbursements. The electors did not vote to authorize the excess disbursements.

A bill, supported by the OSA, has been introduced in the 2005 Legislature to revise Minn. Stat. § 365.43, subd. 1. The proposed bill would limit a town’s spending to “total revenue,” which includes the tax levy, revenue from other sources, and amounts carried forward from the prior year.

In the meantime, we recommend the Town Board of Supervisors 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

normal receipts, or balances carried forward from the prior year. An approval by the electors of not only the levy, but also the total annual disbursements, will remedy problems created by the current language of Minn. Stat. § 365.43.

#### 03-13 Financial Statement Reporting Date

Minn. Stat. § 471.696 states that, “Beginning in 1994, the fiscal year of a town and all of its funds shall be the calendar year.” The Town of Albany still reports its financial affairs at the annual Town meeting using a fiscal year-end of February 28.

We recommend the Town begin maintaining its records on a calendar year-end basis.

#### 03-14 Advance Payments

In 2003, the Town of Albany made two payments totaling \$17,000 to Tschida Construction for road work. The payments were advances--unsupported by a contract or written claims. We were informed that the payments were made based on a request by a Town Board Supervisor and supported only by a hand-written estimate for the project Tschida Construction was to perform.

Pursuant to Minn. Stat. §§ 366.21 and 471.38, subd. 1, a town can pay only those claims against the town that are presented to the Board for payment. Minn. Stat. § 471.38, subd. 1, requires claims to be in writing or an electronic transaction record.

We recommend the Town of Albany follow state law by making payment for claims against the Town only where such claims are in writing. The Town of Albany has no authority to advance funds to third parties.

#### 03-15 Road Construction Contracting

In 2003, the Town of Albany entered into an agreement with Hardrives, Inc., for bituminous paving work in the amount of \$181,791. The Town did not obtain a signed contract for this project, nor did it obtain Minnesota Department of Revenue Form IC-134 from the contractor before making final payment on the contract as required by Minn. Stat. § 290.97. In addition, the Town did not obtain performance or payment bonds as required by Minn. Stat. § 574.26, subd. 2.

Minn. Stat. § 290.97, which relates to the withholding and payment of payroll taxes, requires that local governments shall not make final settlement with any contractor on a contract which requires the employment of employees for wages until a satisfactory showing is made that the contractor has complied with this statute. This requirement is satisfied by obtaining a certified Minnesota Department of Revenue Form IC-134, *Withholding Affidavit for Contractors*, from contractors before making final payment on contracts.

Minn. Stat. § 574.26, subd. 2, states that if the amount of the contract is over \$75,000, it is not valid unless the contractor provides: (1) a performance bond for the use and benefit of the public body to complete the contract according to its terms, and (2) a payment bond for the use and benefit of all persons furnishing labor and materials under the contract.

We recommend the Town obtain Minnesota Department of Revenue Form IC-134 on this contract as required by Minn. Stat. § 290.97 and on all future contracts. In addition, for any future contracts over \$75,000, the Town must obtain performance and payment bonds as required by Minn. Stat. § 574.26, subd. 2.

#### 03-16 Collateral Pledged to Secure Deposits

The Town of Albany had no collateral pledged to secure deposits at Stearns Bank and Central Minnesota Federal Credit Union at any time during the year. Minn. Stat. § 118A.03, subd. 1, requires that, to the extent that funds deposited are in excess of available federal deposit insurance, “. . . the government entity shall require the financial institution to furnish collateral security or a corporate bond executed by a company authorized to do business in the state.” Minn. Stat. § 118A.03, subd. 3, requires the total collateral computed at its market value to be at least ten percent more than the amount on deposit plus accrued interest at the close of the banking day.

The Town is also reminded that in a Federal Court decision, the Court ruled that if a municipality fails to perfect a security interest under federal law, its right to collateral security in the event of default is not enforceable. In order to perfect a security interest in pledged collateral under federal law, the assignments must be in writing (Minn. Stat. § 118A.03, subd. 4); the assignments must be approved by Board of Directors or loan committee of the depository; and an assignment of collateral must be continuously, from the time of its execution, an official record of the depository. *See 12 U.S.C. § 1823(e)*.

We recommend the Clerk/Treasurer review the legal requirements for depositories of public funds and establish procedures to ensure compliance with the law.

#### 03-17 Declaration for Payment

The Town of Albany does not always have vendors sign a declaration for payment statement, nor do the Town’s order-checks have the declaration statement printed on the back. Minn. Stat. § 471.38 provides that “the board or officer authorized by law to audit and allow claims shall not audit or allow the claim until the person claiming payment, or the person’s agent, reduces it to writing or an electronic transaction record, in items and signs a declaration to the effect that such account, claim, or demand is just and correct and that no part of it has been paid.” As an alternative to having the claimant sign the declaration on the Town claim form, the Town may have a “declaration” statement printed on the reverse of the Town’s order-check forms in accordance with Minn. Stat. § 471.391, subd. 2. The Town’s claims will still need to be in writing and properly itemized.

We recommend the Town of Albany ensure compliance with Minn. Stat. § 471.38 by having the declaration stamped or printed on the back of the Town's order-checks.

### **III. MANAGEMENT PRACTICES**

#### **03-18 Budgeted Disbursement of Tax Levy Monies**

State law requires a town board and the board of audit to prepare annual budgets (Minn. Stat. §§ 275.065 and 366.21). The Town of Albany's budget consists of tax levy amounts identified for the purposes of general revenue, road and bridge, and fire protection. The Board had not made or approved a detailed budget of disbursements at the time the Town's tax levy was discussed and approved at the annual Town meeting. As a result, insufficient documentation is available to demonstrate the need for the tax levy and provide accountability as to how those funds would be spent by the Town during the following year.

A budget is essential because it sets the constraints within which the Town Board must operate, it allows the Town Board to allocate money on the basis of priorities, and it provides a tool to measure actual disbursements during the year. Furthermore, a budget is a plan of financial operation, which includes an estimate of proposed disbursements for a given period of time and the proposed means of financing them. All sources of receipts, including funds on hand, must be evaluated against planned disbursements to arrive at a final budget.

We recommend that, prior to the electors taking action on the annual tax levy, a disbursement budget for each fund be discussed by the Board and be made available to the electors. The detailed disbursement budgets should include amounts estimated to be spent for all the major functions, activities, and services provided by the Town. These include such things as road projects, construction projects, the fire protection contract, employees' salaries, supervisors' meeting fees, and other disbursements that can be reasonably estimated. Estimates of other revenues, such as money coming from the state or interest earnings on investments, should also be identified. Finally, amounts, if any, of the funding requirements that could be financed from funds on hand, thereby reducing the tax levy, should be determined.

We also recommend that disbursement budgets approved by the Board be included in the minutes. The Clerk/Treasurer should compare the actual receipts and disbursements to the estimates of the approved budget and report this information to the Town Board on a monthly basis. This allows the Town Board to adjust budgeted amounts, if necessary.



### 3-19 Contracts

The Town of Albany has agreements with several vendors that should be in written contract form. The services being provided include such things as fire protection, road grading, ditch mowing, and snow plowing. A written contract identifies the significant terms of the agreement for both parties, including the services to be performed and conditions for payment. A contract provides the grounds for resolving disputes if they arise. It can also limit the Town's exposure to risk of damages.

We recommend the Town document the significant terms of agreements with vendors for services in written contracts signed by both parties.

### 03-20 Minutes of Monthly Town Board Meetings

We reviewed minutes for monthly Town Board meetings. In some instances, the minutes provide an inadequate history of the meetings involved.

At a minimum, the minutes must include the information required by Minn. Stat. § 471.705 [Open Meeting Law]. This provision requires that the individual votes of each member of the governing body on "any action" be specifically recorded, except for votes on "payments of judgments, claims and amounts fixed by statute." Beyond the minimum requirements, the question of how elaborate and extensive the minutes should be is largely a policy matter.

While the following is not an exhaustive list, some specific items that should be included in the minutes of Town Board meetings are:

- type of meeting (regular, special, adjourned regular, adjourned special, recessed, and emergency);
- whether meeting is a Town Board or Commission meeting;
- date and place meeting was held;
- the time meeting was called to order;
- list of Town Board members present and absent;
- approval of minutes to previous meeting, with any corrections noted;
- appointments of representatives to committees, outside organizations;

- reports of the officers;
- authorizations and directions to invest excess funds, information on investment redemptions and maturities;
- list of all sealed bids received or price quotations obtained;
- identity of parties to whom contracts were awarded;
- abstentions from voting due to a conflict, and the Board member's name and reason for the abstention;
- reasons the Town Board determines to award a particular contract to a bidder other than the lowest bidder;
- granting of variances or special use permits;
- listing of all bills (including per diems) allowed or approved for payment, noting the warrant number, claimant, purpose, and amount;
- transfers of funds; and
- reason the meeting was concluded and the time the meeting concluded.

The minutes should be signed by the Clerk/Treasurer when prepared and then attested to by a Board member, preferably the Chair, at the time the minutes are adopted by the Board. This is usually at the next meeting.

#### 03-21 Insurance Coverage

To the best of our knowledge, after reviewing the Town of Albany's insurance disbursements, it was determined that the Town has only workers' compensation insurance in place.

We recommend that the Town Board analyze the Town's insurance needs. At a minimum, it would be worthwhile to purchase a general liability policy to cover the cost of unforeseen events.

#### 03-22 Written Policies and Procedures

The Town of Albany does not have written policies and procedures.

In addition to implementing the other recommendations in this report, the Clerk/Treasurer and Board members should obtain additional training related to the affairs of towns. The Minnesota Association of Townships offers various training sessions that would be useful. Using these and other resources available, the Town Board should then adopt written policies and procedures that can be used to guide new employees and supervisors as they begin their duties.

## **REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND COMPLIANCE**

Town Board of Supervisors  
Town of Albany

We have audited the cash basis financial statements of the Town of Albany as of and for the year ended December 31, 2003, and have issued our report thereon dated December 17, 2004. Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America.

The Town of Albany's accounting records are not sufficient to support maintaining cash balances by its funds and, therefore, all the Town's receipts and disbursements are recorded in the General Fund.

### Internal Control Over Financial Reporting

The management of the Town of Albany is responsible for establishing and maintaining internal control. In fulfilling this responsibility, management must make estimates and judgments to assess the expected benefits and related costs of internal control policies and procedures. The objectives of internal control are to provide management with reasonable, but not absolute, assurance that:

- assets are safeguarded against loss from unauthorized use or disposition,
- transactions are executed in accordance with management's authorization, and
- transactions are recorded properly to permit the preparation of cash basis financial statements.

Because of inherent limitations in internal control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the control to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit, we considered the Town of Albany's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Town's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Reportable conditions are described the accompanying Schedule of Findings and Recommendations as items 03-1 through 03-6.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, of the reportable conditions listed above, we consider items 03-1 through 03-4 to be material weaknesses.

### Compliance

As part of obtaining reasonable assurance about whether the Town of Albany's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed material instances of noncompliance which are described in the accompanying Schedule of Findings and Recommendations as items 03-7 and 03-8.

### Minnesota Legal Compliance

Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The Town of Albany's accounting records are not sufficient to support maintaining cash balances by its funds and, therefore, all the Town's receipts and disbursements are recorded in the General Fund.

The *Minnesota Legal Compliance Audit Guide for Local Government* contains five main categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, and claims and disbursements. Our study included all of the listed categories, except that we did not test for compliance with public indebtedness because the Town of Albany had no bonded debt transactions. In addition, we tested for compliance with certain other laws applicable to towns.

The results of our tests indicate that, for the items tested, the Town of Albany complied with the material terms and conditions of applicable legal provisions, except as described in the Schedule of Findings and Recommendations as items 03-9 through 03-17.

This report is intended for the information and use of the Board of Supervisors and management and is not intended to be, and should not be, used by anyone other than those specified parties.

PATRICIA ANDERSON  
STATE AUDITOR

GREG HIERLINGER, CPA  
DEPUTY STATE AUDITOR

End of Fieldwork: December 17, 2004