



JULIE BLAHA  
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](mailto:state.auditor@state.mn.us) (E-mail)  
1-800-627-3529 (Relay Service)

March 20, 2019

The Honorable Tony VandenBosch  
Mayor, City of Dundee  
221 South Spencer Street  
Dundee, Minnesota 56131

Dear Mayor Bosch:

The Office of the State Auditor (OSA) received information regarding the unauthorized use of a City of Dundee (City) debit card and discrepancies between cash deposits and the City's utility records. These issues were also reported to the Worthington Police Department, which conducted a criminal investigation. Subsequently, in 2018, a former City employee pleaded guilty and was convicted of felony financial transaction fraud in violation of Minn. Stat. § 609.821, subd. 2 (1).<sup>1</sup>

Based on the OSA's review of certain financial documents from the City, this letter contains recommendations for the City to improve its financial controls going forward.<sup>2</sup>

### Issues and Recommendations

#### 1. City Issued Debit Card

##### a. Facts

From May 2014, until December 2015, a City bank account in the name of "Village of Dundee" was associated with a debit card.

On May 7, 2014, a \$500 opening deposit was made into the bank account.<sup>3</sup> Disbursements made from this account totaled \$361.90 from May 7, 2014, to October 31, 2015. This total consisted of debit card purchases, monthly debit card fees, and service

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<sup>1</sup> Register of Actions, Case No. 53-CR-17-188; A. Sobotka "Former Dundee employee pleads guilty to fraud," (<http://www.dglobe.com/news/crime-and-courts/4434671-former-dundee-employee-pleads-guilty-fraud>), April 21, 2018.

<sup>2</sup> When a law enforcement investigation related to a matter also reviewed by the OSA results in prosecution, the OSA generally does not release information about its review until the prosecution is complete. *See e.g.* Minn. Stat. § 6.715.

<sup>3</sup> The bank account was apparently opened the previous day, May 6, 2014.

charges.<sup>4</sup> City staff determined that several of the purchases were unauthorized and demonstrated personal use of City funds by the former City employee. The City closed the debit card-related bank account in December 2015.

Prior to the establishment of the bank account associated with the debit card, the City Council Meeting Minutes noted that the City needed a credit card, as follows: “The City of Dundee needs to have a credit card for purchases that need to be made online,” but no motion on the subject was made or approved by the City Council. In answer to a recent inquiry, City staff informed the OSA that the City does not currently have a credit card.

#### **b. Recommendation**

Cities have express statutory authority to use credit cards for city purchases.<sup>5</sup> A city’s authority to use debit cards is less clear.<sup>6</sup> Debit cards allow city funds to be immediately withdrawn from a city’s financial account, eliminating the opportunity to review the purchase before funds are removed. In addition, debit cards provide cities with less protection than credit cards.<sup>7</sup> Debit cards also circumvent the claims approval safeguards found in Minnesota law.<sup>8</sup> As noted above, the City closed the debit card-related bank account. The OSA recommends that the City refrain from using debit cards in the future.

In addition, the City should use credit cards only in accordance with a comprehensive credit card policy. In order to provide guidance on what to include in such a policy, the OSA has enclosed a copy of the OSA’s Statement of Position, “Credit Card Use and Policies.”<sup>9</sup>

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<sup>4</sup> A check to the “Village of Dundee” for \$138.10 – the remaining balance in the account – cleared the account on November 30, 2015.

<sup>5</sup> See Minn. Stat. § 471.382.

<sup>6</sup> In contrast to the specific naming of credit card use as an acceptable means to pay city claims, the statutes do not similarly specifically name “debit card” use. Moreover, the statutes *do* specifically name “debit card” use as an acceptable way to *receive* payment. See Minn. Stat. §§ 471.382 (authority to pay claims with credit card) and 471.381, subd. 1 (authority to pay claims by “all forms of electronic or wire funds transfer”), *but see* Minn. Stat. § 471.381, subd. 2 (authorizes cities to accept payment by use of a credit card, debit card, and “all forms of electronic or wire funds transfer”).

<sup>7</sup> See, e.g., *Credit, Debit, or ACH: Consequences & Liabilities, A Comparison of the Differences in Consumer Liabilities* by Ann. H. Spiotto, Federal Reserve Bank of Chicago (September 2001).

<sup>8</sup> See, e.g., Minn. Stat. § 412.271, subd. 2 (claims must generally be itemized and in writing).

<sup>9</sup> The Statement of Position is also available on the OSA’s website at:

[http://www.auditor.state.mn.us/other/Statements/creditcardusepolicies\\_0703\\_statement.pdf](http://www.auditor.state.mn.us/other/Statements/creditcardusepolicies_0703_statement.pdf). The City may also want to review the League of Minnesota Cities’ publication, *Procedures for Paying City Claims* (January 2019), available on the League of Minnesota Cities’ website, [www.lmc.org](http://www.lmc.org) (Section VII covers credit cards).

## **2. Utility Payments**

### **a. Facts**

The City accepted payment in cash for utility charges billed to its residents. The City used an electronic billing system to track outstanding bills and payments received. The City reported instances where cash payments were recorded in the electronic billing system, but no corresponding cash deposits were made. According to the City, cash collected from residents may have been kept in a safe at City Hall and not deposited promptly. If collections are not deposited promptly, the ability to properly monitor funds and reconcile financial activity is weakened, increasing the opportunity for theft or other loss of funds.

### **b. Recommendation**

The OSA recommends that the City require that all collections be deposited as soon as practical. Deposit records should note the amount of cash and checks deposited, and these amounts should be compared to the collections recorded in the utility billing system.

In addition, the OSA recommends that a bank receipt for each deposit be obtained at the point of deposit. Someone other than the person making the deposit should reconcile the amounts on the bank receipts to the corresponding amounts recorded in the utility billing system.

Finally, the OSA encourages the City to implement procedures that will improve segregation of duties within the billing function.<sup>10</sup>

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<sup>10</sup> The League of Minnesota Cities (LMC) has additional information on utility billing practices that the City may find helpful. See LMC's Research Memorandum, "Securing Payment of Utility Charges" (October 2018), available on LMC's website. It contains, for example, best practices for billing (pages 11 – 13).

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## **Conclusion**

If you have any questions about the issues raised in this letter, please feel free to contact me.

Sincerely,

*/s/ Mark F. Kerr*

Mark F. Kerr, JD, CFE  
Special Investigations Director  
(651) 296-4717

Enclosure

cc: The Honorable Jerry Kass, City Council Member  
The Honorable Dawn VandenBosch, City Council Member  
The Honorable Marcie Ash, City Council Member  
The Honorable Virgil Wilford, City Council Member  
Ms. Julie Burchill, Interim City Clerk