

COMMUNICATION BULLETIN

FROM THE BOARD OF TRUSTEES, VILLAGE OF LAKE NEBAGAMON

December 19, 2018

INTRODUCTION

The community has properly expressed great interest in a series of events which led to a forensic accounting investigation and termination of our long-time Village Administrator. The Board has a great desire to be transparent, and (has) promised to try to answer questions upon the conclusion of the forensic accounting investigation. With that task having been concluded, and in the interests of transparency, the Board is releasing the following information:

Frequently Asked Questions

Question 1: During the investigation and prior to termination, was the Administrator provided with due process?

Answer: The Village Administrator was presented with and asked to offer comment and input in relation to the various complaints and the findings of the investigation as they were learned, or developed. These included at least three separate discussions with the Board President (and in each instance the Board President was accompanied by others), and/or the President's representative. The input received from these communications did not answer questions or quell any of the concerns, but rather prompted further investigation.

Question 2: How did the inquiry/investigation begin?

Answer: The investigation began with the formal and informal internal complaint(s). A substantial portion of the complaints were regarding substantive and procedural improprieties, the existence of an unknown credit card, and potential non-compliance with existing law. Initial inquiries of the Village Administrator did not satisfactorily answer the questions/concerns, so the Board was then duty-bound to investigate further.

Question 3: Why did the Board hire an independent accounting firm to perform a forensic investigation?

Answer: After the internal complaints regarding procedural and potential legal improprieties, and interviewing the Village Administrator, the Finance Committee of the board conducted its own cursory review of the complaints and reviewed selected internal office procedures, and found the complaints to have merit, but to be beyond the scope of the Finance Committee's internal expertise. Both to provide independence to the investigation and requisite expertise, the Finance

Committee recommended to the Board that an independent accountant review the situation. The Board privately accepted that recommendation and authorized the Finance Committee to proceed.

Question 4: How did the Board retain James Colborn, CPA, LLC?

Answer: The Committee/Board considered requisite qualifications, experience, availability (which needed to be immediate), and the fact that the firm was “local,” and thus could work on site, be available upon short notice, and attend meetings if necessary. The chosen firm also needed to be able to begin the work immediately, and complete the initial portion of the work quickly, at reasonable cost. All of these factors favored the selection of James Colborn, CPA, LLC (“Colborn”). In addition, Colborn is a firm that has been in local public practice for 20+ years, is the auditor to the Village of Poplar, and had the specific experience necessary to allow the committee to recommend the Colborn firm for this work. One of the Board members knew who Colborn was, prior to his firm’s selection for this work, but neither the Board, nor any Board member had any previous or ongoing business relationship to Colborn, prior to this engagement. Mr. Curt Forse is the employee of Colborn most experienced in forensic accounting. He is supervised in his work by James Colborn, CPA, as an individual.

Question 5: If James Colborn, CPA, LLC was the firm retained by the Board, who is Curt Forse?

Answer: Curt Forse works for Colborn. While by law Colborn is entitled to employ anyone he wants with many or no qualifications to assist in forensic investigations, Colborn assigned Curt Forse to the Village investigation because of his background and qualifications. Forse has substantial experience as a forensic accountant, and had previously possessed licensure as a CPA. He voluntarily relinquished that licensure for a period to pursue other business opportunities which did not require licensure, before coming to Colborn. Colborn assigned Forse because of his level of experience in forensic investigations. Forse has reinstated his CPA licensure as of 12/4/18.

Question 6: Did the accounting firm perform an audit?

Answer: No. Publically, citizens, and to a degree even the Board, have interchangeably used the term “audit” with the task actually performed, which was an “agreed upon procedures engagement.” In this instance, the engagement looks much like a forensic investigation. A true audit is substantially more expensive. Likewise, an audit is not meant to determine procedural improprieties, offer suggestions, or assist in follow-through. In fact, in a true independent audit, the auditor would make standardized assumptions regarding the propriety of procedures, and would be ethically bound by the rules which govern certified public accountants not to offer remedial suggestions or provide follow-up support. Audit is defined as follows: “A financial Audit is conducted to provide an opinion whether financial

statements are fairly presented in accordance with accounting standards applicable to the entity undergoing an audit.” The Board specifically did not want or request an “audit.” The Board envisioned and requested an independent forensic accounting investigation with suggestions for resolving the problems, and if necessary, state of the art accounting support for addressing those problems.

Question 7: What was the scope of the forensic accounting investigation/project?

Answer: The accounting firm began by investigating matters of specific complaint, but was asked to review Village records and procedures in greater depth, when what was being found, merited further investigation. As such, additional problems were uncovered and suggestions for resolving those problems were offered. It required yet additional work, additional footwork, effort, and time to resolve those issues. Upon finding procedural irregularities and problems at the Village office, the scope of the assignment was expanded to include the other independent entities which also fall under the Board’s authority, including the Lake Nebagamon Fire Department and the Sanitary Sewer District.

Question 8: What other components were there to the Board investigation?

At the time of the initial complaints, and on two subsequent occasions, the Village Administrator was offered the opportunity to explain the various issues arising which were of concern. As with the forensic accounting, the responses provided did not resolve the issues, but merited yet further inquiry.

Question 9: Is the investigation complete?

Answer: The investigation is completed, and a copy of the final report, which is a public record, is provided as a reference.

Question 10: What problems were uncovered, and what steps has the Finance Committee and/or the Board taken to address these problems?

Answer: A good (but not necessarily fully comprehensive) synopsis of the problems which were revealed to the Finance Committee and the Board, the suggestions for remediating the identified problems, and the actions undertaken to address and provide remedy to the problems are set forth in the final report of James Colborn, CPA, LLC, provided for reference. The Board has undertaken these and other additional steps (referenced below, Questions 13-15) in a transparent, sincere, and comprehensive effort to ensure that similar procedural irregularities do not occur and that checks and balances and oversight measures of operations are in place for the future.

Question 11: Now that the Administrator position is vacant, how will it be filled?

Answer: The Board revised the job descriptions, opened applications and posted the jobs of both the Clerk and the Administrator. The application period is open until December 22, 2018. Unfortunately, from the Board's perspective, the current Clerk, Amy Huber, has indicated that she will not be applying for either position, although she did offer to stay on to assist with training any new hires.

Question 12: Multiple closed sessions were held during the investigation and pendency of these decisions. Why were there closed sessions?

Answer: Meetings are presumptively "open." However, Wis. Stat. §19.85(1) (and subsections) does allow exceptions to open meetings and not only allows, but sometimes requires closed sessions under the terms of that statute. Here, the closed sessions were primarily held because they dealt with privacy interests of an employee of the Village (the Village Administrator) that, at least until the investigation was concluded, was entitled to privacy, and not to have the matter aired in public. To the extent that under Wis. Stat. §19.85(1)(b) the Board is considering "discipline, demotion...or discipline of any public employee," the matters are properly dealt with in a closed session, and under (f) if the issues considered "...if discussed in public, would be likely to have a substantial adverse effect upon the reputation of the person..." or under (g) to consult with legal counsel. Notwithstanding the fact of the closed session, minutes are still generated at a closed session which are typically available to the public after approval, except for very few, limited circumstances, which have not been applicable here.

Question 13: What has been done to correct the issues cited in the report?

- An upgrade to 2019 Quickbooks with a payroll subscription was made on October 1st.
- WRS Retirement employee contributions began to be deducted on the first scheduled October payroll.
- Employee contributions paid by the Village for Jan - Sep of 2018 have started to be paid back. Payroll deductions to handle the remaining balances will start in January.
- The amended 2015-2017 W2's were filed and applicable payroll taxes paid in mid-October.
- The benefit plan referenced in the October 1st report was abolished at the October 2nd closed session Board meeting.
- All forms of supplemental pay have been eliminated.
- All employee income is now subject to tax for all Village entities.
- All invoices are now subject to full Board approval prior to payment.
- Job descriptions for central office positions have been rewritten to reflect the Board's newly required protocols, as well as to correlate them to existing job duties.

- The employee handbook has been rewritten and is being reviewed by the Board.
- Arrangements have been made to pay employees any monies actually owed to them.
- The Board has requested/engaged the services of Rural Community Assistance Program, an organization that specializes in governmental accounting for small towns and villages in Wisconsin.
- The Board has approved a new protocol whereby the Board regularly reviews all sub-entity budgets, and the ongoing accounts and balances during each meeting/monthly.
- In conjunction with the Clerk and the Rural Community Assistance Program, the Board has initiated a new “industry standard” spreadsheet, which provides far more information to the Board and provides greater transparency regarding budgeting.

Question 14: What is being done to make sure this doesn’t happen again?

- The payroll subscription in Quickbooks updates with all current tax information regularly and calculates all wage deductions automatically.
- The office positions are being restructured with new job descriptions and will be filled soon.
- The procedure for the approval and payment of invoices has been changed.
- There are greater checks and balances at all levels.
- There is greater ability to transparently check finances at all levels.
- Consideration of full audit upon implementation of all corrections, to insure proper tracking.

Question 15: What other changes are being made to improve the function of the Village office?

- Expense and income accounts in Quickbooks have been restructured to itemize all expenses and make transactions between Village entities more transparent.
- The budget has been restructured to itemize all expenses, revenues and debt service in compliance with Wisconsin state statute.
- Bank accounts have been consolidated and are now being reconciled in Quickbooks.
- Dual signatories are now required on all Village accounts.
- Personnel files are being updated.

Question 16: Was there a Village credit card issue?

Answer: Part of the initial complaint process was that there was an outstanding card, co-named with the Village, that was being used for personal purposes. The credit card balance was being paid monthly by the Village Administrator with her own money. This was one of the focal points of the initial inquiries since the Village Board was unaware of its existence. After confirming its existence, the Village has taken steps, including the drafting of a written letter confirming the authority of the Village President to cancel credit cards in its name, in writing. The issue is being resolved during the pendency of this document.

Question 17: How much will all of this cost?

Answer: The Village Board, in conjunction with its forensic accountants, have taken steps to contact regulating agencies to inform them of the circumstances surrounding the problems encountered. So far, regulating entities have not shown a propensity to impose penalties and fines as a result of voluntary disclosure and remediation, but there are no promises. Nonetheless, the Village is “out” overpayments, which were made on behalf of employees (who were supposed to be contributing from their own income to WRS), certain accrued benefits which were promised to employees, and accounting and legal fees. Absent fines and other penalties, and although the total cost has not been completely calculated, the Village hopes to resolve the issues uncovered in the investigation for in a range around \$150,000.

Question 18: What can Village citizens expect in the future?

Answer: Better and more efficient accounting procedures, better organization, greater consistency in the application of Village rules and procedures, greater oversight at all levels, decreased independence of any particular Village position, modernization of practices, and greater financial and other transparency at all levels.

Question 19: Is law enforcement involved in this matter?

Answer: The Board did not notify law enforcement during the pendency of the investigation, and until the conclusion of the investigation. Now that the investigation has been concluded, a copy of the report has been forwarded to law enforcement, and any additional follow-up which may be pursued by law enforcement, will be up to law enforcement, subject to the promise of full Village cooperation.

Other additional questions should be addressed informally or formally to the President of the Board, or any Board member, at your discretion. Let us take this opportunity to thank the community for its patience while we have addressed and implemented these changes. Happy Holidays.