

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

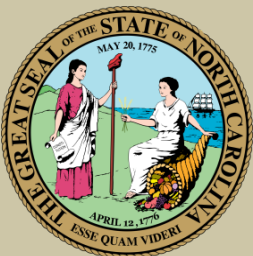
BETH A. WOOD, CPA



TOWN OF GASTON

GASTON, NORTH CAROLINA

INVESTIGATIVE REPORT
AUGUST 2021



NC  **OSA**
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The North Carolina Office of the State Auditor (OSA) received nine allegations through its Hotline concerning the Town of Gaston (Town) and initiated an investigation.

ADDITIONAL RESOURCES REQUIRED

Substantial OSA resources were required to investigate the nine allegations received due to the lack of accounting records maintained by the Town. Additionally, the annual financial statement audits¹ for the Town have been delinquent. The annual audits for four fiscal years, 2016 through 2019, were not performed in a timely manner and on average were submitted 183 days late to the Local Government Commission.² The current annual audit for fiscal year 2020 has not been completed and is currently more than six months overdue.³

A significant risk remains that fraud, accounting errors, and inaccurate financial reporting could go undetected due to the Town's lack of internal controls, the lack of accounting records, and the delinquent annual financial statement audits. See "Matter for Further Consideration" on page 12.

BACKGROUND

The Town was incorporated in 1949⁴ and is located in Northampton County,⁵ which is in the coastal plains area⁶ of eastern North Carolina. The Town is a municipal corporation that is governed by an elected mayor and a Board of Commissioners. The Town provides general government services including law enforcement and public works services to approximately 1,093 residents.⁷

In fiscal year 2019-2020, the Town operated on an annual budget of \$663,000. The Business Office is responsible for overseeing the Town's financial operations and consists of a Town Clerk, a part-time Assistant Town Clerk, and a part-time Office Assistant (who is also the Mayor).

KEY FINDINGS

- The Town Clerk abused her position to:
 - issue unauthorized loans to Town employees and herself totaling \$39,072,
 - receive \$4,410 in unallowed vacation pay,
 - commingle her personal funds with Town funds, and
 - not obtain the required secondary signature on all Town checks.

¹ *North Carolina General Statute* 159-34(a) requires all units of local government to have an annual audit. Specifically, each unit of local government and public authority shall have its accounts audited as soon as possible after the close of **each fiscal year** by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts.

² The Local Government Commission is responsible for fulfilling the obligations found in Chapter 159 of the *North Carolina General Statutes*. Staff provides resources, guidance, and oversight to units of local government subject to the provisions of Chapter 159 on a variety of topics including annual budgets, internal controls, debt management, and pension and other post-employment benefits reporting.

³ For the fiscal year ended June 30, 2020, the deadline for annual financial statement audits was extended from October 31, 2020 to January 31, 2021 to allow for the impacts of COVID-19.

⁴ <https://www.facebook.com/GastonTownof/>

⁵ <https://www.nclm.org/who-we-are/municipal-detail?org=dc8dd3a6-9ba5-de11-830f-005056a07b49>

⁶ <https://www.ncpedia.org/our-state-geography-snap-three>

⁷ <https://www.nclm.org/who-we-are/municipal-detail?org=dc8dd3a6-9ba5-de11-830f-005056a07b49>

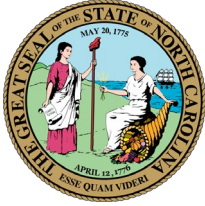
- A Commissioner purchased used town equipment for approximately \$2,700 below fair market value.

KEY RECOMMENDATIONS

- The Town should consider disciplinary action, up to and including termination, against the Town Clerk for:
 - issuing unauthorized employee loans to herself and other Town employees,
 - violating Town policy by working for the Town at the same time that she was receiving vacation pay,
 - commingling her personal funds with Town funds, and
 - not obtaining the required secondary signature on all Town checks.
- The Town should seek reimbursement from the Clerk for the amount of pay she received but did not earn in unallowed vacation pay.
- The Town Board of Commissioners should enhance their oversight and monitoring to ensure any actions taken are in the best interest of the Town residents.

Key findings and recommendations are not inclusive of all findings and recommendations in the report.

STATE OF NORTH CAROLINA
Office of the State Auditor



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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Town of Gaston Board of Commissioners

Ladies and Gentlemen:

Pursuant to *North Carolina General Statutes §147-64.6(c)(16)* and *§147-64.6B*, we have completed an investigation of allegations concerning the Town of Gaston. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General, and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the Town of Gaston during our investigation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

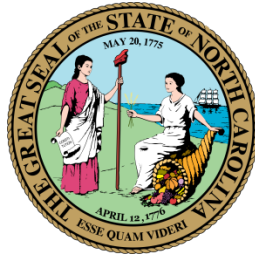
Beth A. Wood, CPA
State Auditor



**Beth A. Wood, CPA
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BACKGROUND

The North Carolina Office of the State Auditor (OSA) received nine allegations through its Hotline concerning the Town of Gaston (Town) and initiated an investigation.

Our investigation of these allegations included the following procedures:

- Review of applicable *North Carolina General Statutes* and Town policies and procedures
- Examination and analysis of available documentation related to the allegations
- Interviews with the current and former Town Officials and personnel

This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statutes §147-64.6(c)(16)* and *§147-64.6B*.

The Town was incorporated in 1949⁸ and is located in Northampton County,⁹ which is in the coastal plains area¹⁰ of eastern North Carolina. The Town is a municipal corporation that is governed by an elected mayor and a Board of Commissioners. The Town provides general government services including law enforcement and public works services to approximately 1,093 residents.¹¹

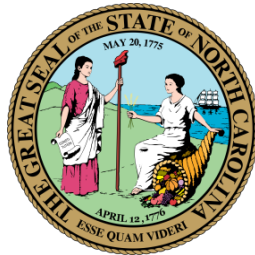
In fiscal year 2019-2020, the Town operated on an annual budget of \$663,000. The Business Office is responsible for overseeing the Town's financial operations and consists of a Town Clerk, a part-time Assistant Town Clerk, and a part-time Office Assistant (who is also the Mayor).

⁸ <https://www.facebook.com/GastonTownof/>

⁹ <https://www.nclm.org/who-we-are/municipal-detail?org=dc8dd3a6-9ba5-de11-830f-005056a07b49>

¹⁰ <https://www.ncpedia.org/our-state-geography-snap-three>

¹¹ <https://www.nclm.org/who-we-are/municipal-detail?org=dc8dd3a6-9ba5-de11-830f-005056a07b49>



FINDINGS AND RECOMMENDATIONS

1. TOWN EMPLOYEES RECEIVED \$39,072 IN UNAUTHORIZED EMPLOYEE LOANS

Three Town of Gaston (Town) employees¹² received unauthorized¹³ employee loans. As a result, the Town paid \$39,072 that was not authorized in the Town’s budget. The unauthorized employee loans were not detected because the checks for the loans were issued without adequate¹⁴ review. Additionally, once identified, the loans were repaid with questionable payback methods. Town policies prohibit an employee from receiving a personal and financial advantage because of his/her position with the Town. Receiving unauthorized employee loans would be considered a personal and financial advantage.

Unauthorized Employee Loans

From 2014 to 2017, the Town Clerk (Clerk) issued unauthorized employee loans¹⁵ to three employees totaling \$39,072.

The Clerk did not adequately track the loan balances and the loans were not recorded in the Town’s accounting system.

In 2017, a part-time Assistant Town Clerk (Assistant Clerk) discovered the unauthorized loans and notified the Board. At that time, she calculated the outstanding balances to be \$21,270, which accounted for some repayments of the loans.

Investigators identified an error in the loan balance calculation that understated the unauthorized loans by \$5,666.¹⁶ After the error was corrected, the total outstanding balances for the three employees were \$26,936.

Position	Outstanding Balance
Clerk	\$11,244
Former Police Sergeant (Sergeant)	\$13,772
Former Part-Time Police Officer (Officer)	\$1,920
Total	\$26,936

Once notified by the Assistant Clerk, the Board required the loans to be paid back immediately.

¹² The Town Clerk, a former Police Sergeant, and a former part-time Police Officer.
¹³ Unauthorized refers to expenses that are not in the approved budget and were not approved by the Board.
¹⁴ An “adequate review” involves verifying the expenditure is for a legitimate purpose, ensuring the expenditure was included in the Town’s annual budget, and reviewing the supporting documentation (invoice, requisition, etc.).
¹⁵ The loans were made as both employee loans and payroll advances.
¹⁶ Personal funds of \$5,366 that were commingled in Town’s bank account by the Clerk (see Finding #3) were mistaken for loan repayments by the Assistant Town Clerk. In addition, a \$300 error in the calculation of these funds was made by the Assistant Town Clerk and as a result the outstanding loan balance was credited \$5,666.

However, the loans had no written agreement and no repayment terms. Therefore, the loans were repaid using questionable payback methods. Specifically:

- The Clerk used her accrued leave balance to repay \$1,851¹⁷ and **did not** pay back \$5,666 due to the loan balance calculation error noted above which is still owed to the Town.¹⁸ The remaining balance was repaid by the Clerk via check.
- The Sergeant used his accrued leave balance of \$13,169 that was allegedly¹⁹ owed to him by the Town to repay the outstanding balance on his loan. This repayment included \$9,307²⁰ of leave that exceeded the maximum allowable amount by Town policy.²¹ The remaining balance was paid in cash.
- The Officer repaid \$800 by making weekly payments ranging from \$20-50 per week for 12 months before entering into a verbal agreement²² to paint the Police Department interior and the Town's baseball field restrooms to satisfy the remaining \$1,120.

Resulted in \$39,072 That Was Not Available for Valid Town Business

As a result of the unauthorized employee loans, the Town paid \$39,072 that was not authorized in the Town's budgets. Therefore, the funds were not available for the benefit of the Town.

For example, as explained by the former Police Chief, "I was having problems getting a damn patrol car" while the Clerk was allowing employees to receive unauthorized employee loans.

Caused By Inadequate Oversight by the Board

The unauthorized employee loans were issued and not detected for two reasons.

First, according to the Clerk, several checks were pre-signed by Town officials, including a member of the Board of Commissioners. These checks were available for use without any review since they were already signed. The Clerk stated that, "in the past, like say for instance if the - the check sheets are thirty to a sheet, thirty would get signed. Or either at least over half of them."

Second, the Commissioner responsible for reviewing and approving checks did not perform an adequate review. An "adequate review" involves verifying the expenditure is for a legitimate purpose, ensuring the expenditure was included in the Town's annual budget, and reviewing the supporting documentation (invoice, requisition, etc.).

¹⁷ The total cost of the Clerk's accrued leave payout for the Town was \$2,458 but \$607 was withheld for taxes and deductions.

¹⁸ Personal funds of \$5,366 that were commingled in Town's bank account by the Clerk (see Finding #3) were mistaken for loan repayments by the Assistant Town Clerk. In addition, a \$300 error in the calculation of these funds was made by the Assistant Town Clerk and as a result the outstanding loan balance was credited \$5,666.

¹⁹ The Sergeant and a former Police Chief created a handwritten note containing accrued leave balances that the Sergeant was allegedly owed by the Town. The Town has no formal leave tracking system.

²⁰ This amount consists of the following: Accrued Vacation leave - \$1,864 (120 hours at \$15.53 per hour), Accrued Holiday leave - \$5,964 (384 hours at \$15.53 per hour), and Accrued Overtime / Comp Time - \$1,479 (63.5 hours at \$23.29 per hour).

²¹ According to the *Town of Gaston Policies and Procedures* manual, the maximum amount of vacation leave a Town employee can accrue is 30 days (240 hours). As part of the payout associated with accrued vacation leave, the Sergeant received compensation for a total of 360 hours which exceeds the maximum amount a Town employee can accrue by 120 hours. Additionally, the manual did not contain any reference or mention either accrued holiday leave or accrued overtime/comp time.

²² The former Officer, former Police Chief, Town Clerk, and the Assistant Town Clerk all stated that a verbal agreement was reached.

When the Commissioner was asked how many unauthorized employee loan checks he signed, he replied, "To my knowledge, I didn't sign any of them, but I must have." However, after some additional inquiry, the Commissioner commented that he does not perform a detailed review of the checks before signing. He stated, "See, the Clerk's already reviewed everything...and then all I do is co-sign." He also stated, "It's just in a stack of checks I'm signing, I might've missed – I might've missed those, might not have looked over it that good. Like yourself, I'm trying to get back out and go do my job. Sign what they got to do and get out." When the Commissioner was asked what his signature represents, he stated, "Basically, from what I understand, it don't really mean anything."

Town Policies and Procedures Manual

The *Town of Gaston Policies and Procedures* manual states that "no employee shall seek personal or financial advantage because of his/her position with the Town."

The unauthorized employee loans are an example of a personal and financial advantage.

Further, the manual states that "Item[s] not included in the fiscal year budget, must have board approval regardless of cost."

RECOMMENDATIONS

The Town should consider disciplinary action, up to and including termination, for the Clerk's abusing her position to issue unauthorized employee loans to herself and other Town employees.

The Town should seek repayment from the Clerk for the amount that she did not repay (\$5,666) in her unauthorized employee loan balance.

The Town should cease the practice of allowing checks to be pre-signed.

The Commissioner responsible for reviewing and approving checks should perform an adequate review of all checks issued by the Town.

2. TOWN CLERK OBTAINED \$4,410 IN UNALLOWED VACATION PAY

The Town of Gaston (Town) Clerk (Clerk) was paid for vacation leave while still working, which is in violation of Town policy. As a result, the Town paid \$4,410 that was not authorized in the Town's budget. This happened because the Commissioner responsible for reviewing the checks for the paid vacation leave did not perform an adequate²³ review. Town policy prohibits an employee from working for the Town at the same time the employee is on paid vacation.

Violation of Town Personnel Policy

The Clerk violated the Town Personnel policy by working for the Town at the same time that she was receiving vacation pay.

²³ An "adequate review" involves verifying the expenditure is for a legitimate purpose, ensuring the expenditure was included in the Town's annual budget, and reviewing the supporting documentation (invoice, requisition, etc.).

From November 2017 through February 2020, the Clerk prepared and issued 10 checks to herself for unallowable pay for vacation leave. In total, the Clerk received vacation leave pay for 350 hours totaling \$4,410²⁴ while also being paid for working.

For five of the payments, the checks were approved by a Commissioner, despite violating the Town policy.

For the remaining five payments, the Clerk prepared and processed the checks without obtaining a second signature.²⁵

Additionally, based on the Clerk's years of service, she had not earned and was not entitled²⁶ to \$1,826 (or 146 hours) of the \$4,410 in vacation leave pay she paid herself while working for the Town.

Resulted in \$4,410 that was Not Available for Budgeted Town Purposes

As a result of unallowed pay out of vacation leave, the Town paid \$4,410 that was not authorized in the Town's budget. The working vacation leave expenditures were not originally included or approved as part of the annual budget. Therefore, these funds were not available for budgeted Town purposes.

Caused By Insufficient Review

The Clerk was able to work for the Town at the same time she was receiving paid vacation leave because the Commissioner who was responsible for reviewing checks did not review supporting documentation when approving five of the checks the Clerk received for vacation leave. The Commissioner told investigators "Basically she [the Clerk] tells me what she's got...I take her word for it". The Commissioner also stated, "... the Clerk's already reviewed everything...and then all I do is co-sign" when explaining his review process.

Further, the five checks that did not have a secondary signature were not identified because the Board of Commissioners did not develop any procedures to perform a review of the monthly bank statements, including not designating who should be responsible for that task. A sufficient review of monthly bank statements by a Town employee other than the Clerk or member of the Board of Commissioners, which would include looking at the canceled checks, would have detected the five checks issued by the Clerk without the required dual signatures.

Town Policies and Procedures Manual

The *Town of Gaston Policies and Procedures* manual states, "An employee will not work for the Town at the same time that he is on paid vacation."

The *Town of Gaston Policies and Procedures* manual also requires dual signatures on checks.

²⁴ The total cost to the Town for the Clerk's vacation payouts was \$4,410. After deductions and taxes, the Clerk received \$3,075.

²⁵ Town policies require that all checks include a secondary signature.

²⁶ According to Town Policy, an employee who has worked for the Town between five to 10 years is entitled to accrue two weeks of vacation annually. The Clerk was hired in July of 2011 and based on her years of service, her annual accrual rate was 2 weeks during the period in question. Additionally, the Clerk acknowledged her accrued vacation leave was fully exhausted after the loan repayment in April 2017 (see Finding #1).

RECOMMENDATIONS

The Town should consider disciplinary action, up to and including termination, for the Clerk's abusing her position to receive unauthorized vacation pay.

The Town should seek reimbursement from the Clerk for the amount of pay she received but did not earn in unallowed vacation pay.

The Commissioner responsible for reviewing and approving checks should ensure that their review of checks is adequate²⁷ to identify any policy violations.

The Town should develop procedures to safeguard the Town funds, such as monthly bank reconciliations performed by someone other than the Clerk, including a review of canceled checks.

3. TOWN CLERK COMMINGLED PERSONAL AND TOWN FUNDS

The Town of Gaston (Town) Clerk (Clerk) commingled at least \$5,366 of her personal funds in the Town's bank account. As a result, the Town was at a greater risk of fraud, such as the Clerk using Town funds for personal use. The commingling of funds happened and was not detected because the Town Board of Commissioners (Board) did not develop procedures for someone other than the Clerk to perform a review of the monthly bank statements, including a review of canceled checks. *North Carolina General Statutes* require the Clerk to keep the accounts of the local government in accordance with generally accepted principles of governmental accounting. Commingling personal funds with Town funds is not an acceptable principle of governmental accounting.

Commingling of Personal and Town Funds

From 2014 to 2017, the Clerk commingled at least \$5,366²⁸ of her personal funds in the Town's bank account.

While reviewing the Town's bank account and bank statements, investigators noted that the number of payroll checks received by the Clerk exceeded the number of payroll periods. There were 234 payroll periods, but the Clerk received 258 payroll checks.

When asked about the variance in the number of payroll periods and number of payroll checks, the Clerk stated that she used the Town's bank account for personal convenience. Specifically, she stated that her bank was located in Virginia and there was not a local branch where she could make timely deposits.

²⁷ An "adequate review" involves verifying the expenditure is for a legitimate purpose, ensuring the expenditure was included in the Town's annual budget, and reviewing the supporting documentation (invoice, requisition, etc.).

²⁸ Although the part-time Assistant Town Clerk incorrectly assumed the deposits totaling \$5,366 were loan repayments (see Finding #1), the Clerk told investigators these deposits were associated with cash from her child support payments and not associated with loan repayments. Due to the lack of Town financial records and lack of documentation, there remains a significant risk the amount of personal funds commingled by the Clerk exceeds \$5,366.

Instead, she deposited cash received from child support payments into the Town's bank account²⁹ and then wrote herself a Town check to recover her funds. The Clerk explained that she took pictures of the Town checks and used the mobile banking application on her phone to deposit these funds into her bank account in Virginia.³⁰

In some instances, the Town checks the Clerk wrote to herself were greater than the amount of her personal funds she deposited into the Town's bank account. The Clerk treated the excess amounts as unauthorized employee loans.³¹

Further, the Clerk issued 76 payroll checks without obtaining the required secondary signature.³²

Increased Risk of Fraud

As a result of the Clerk commingling personal and Town funds, the Town is at a greater risk of fraud or accounting errors occurring and not being detected. An example of fraud would be the Clerk using the Town funds for personal use.

Caused by Lack of Oversight

The commingling of personal and Town funds occurred and was not detected because the Board did not provide oversight.

Specifically, the Board did not ensure that bank statements were being reconciled to the accounting records by someone other than the Town Clerk. The Town receives monthly bank statements which contain images of all checks issued.

A bank reconciliation (as described above) and a review of the check images provided performed by someone other than the Clerk would have detected the commingling of funds and the payments issued by the Clerk without the required secondary signature.

North Carolina General Statutes

North Carolina General Statute §159-25(a) states that the finance officer³³ shall:

- (1) Keep the **accounts of the local government** or public authority in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission. *[Emphasis Added]*
- (4) Receive and deposit all moneys accruing to the local government or public authority, or supervise the receipt and deposit of money by other duly authorized officers or employees.

²⁹ See Appendix for examples of inadequate records maintained by the Clerk including records of her personal funds deposited into the Town's bank account and the "sticky notes" she used to attempt to track how much she was "owed."

³⁰ Mobile banking is a service provided by a bank that allows its customers to complete financial transactions remotely using a mobile device such as a smartphone. To deposit a check using this method, the individual must take a picture of the front and back of an endorsed check and upload the image via the bank's mobile application.

³¹ This issue is addressed in Finding #1.

³² These checks were either legitimate payroll checks, employee loans (see Finding #1), repayment of commingling (as described in this finding), or unallowed vacation pay (see Finding #2).

³³ For the Town, the Clerk serves as the Finance Officer.

The Clerk using the Town's bank account to deposit her personal funds does not comply with these statutes since personal funds were commingled with the **accounts of the local government**.

Town Policies and Procedures Manual

The *Town of Gaston Policies and Procedures* manual requires a secondary signature. Specifically:

Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or properly designated deputy finance officer and **countersigned by another official of the local government** or public authority designated for this purpose by the governing board. *[Emphasis Added]*

RECOMMENDATIONS

The Town should consider disciplinary action, up to and including termination, against the Clerk for:

- commingling her personal funds with Town funds.
- not obtaining the required secondary signature on all Town checks.

The Board should provide oversight, including ensuring bank reconciliations are completed by someone other than the Clerk.

4. COMMISSIONER PURCHASED USED TOWN EQUIPMENT FOR APPROXIMATELY \$2,700 BELOW FAIR MARKET VALUE

A Town of Gaston (Town) Commissioner (Commissioner) purchased a Town lawnmower below fair market value. As a result, the Town lost approximately \$2,700 from the sale of the lawnmower that could have been used for the benefit of Town residents. The Town Commissioners that approved the private sale of the lawnmower did not perform due diligence to obtain the fair market value of the lawnmower. The *Town of Gaston Policies and Procedures* prohibits seeking personal or financial gain and prohibits engaging in a scheme for personal profit in connection with official duty or city property, such as the Town-owned lawnmower.

Purchase of Town Equipment Below Fair Market Value

A Commissioner used his position as both a Commissioner and a Public Works employee to purchase a Town lawnmower for approximately \$2,700 below fair market value. Specifically, the Commissioner used his first-hand knowledge about the condition of the lawnmower³⁴ to make an offer to purchase it below fair market value.

In 2009, the Town purchased a Gravely 260 lawnmower for \$7,490. The lawnmower was used by the Commissioner as part of his job duties as a Public Works employee.

In 2019, the Commissioner purchased the lawnmower from the Town for \$800.

During the July 2019 Town Board of Commissioners (Board) meeting, the Commissioner making the purchase stated the lawnmower would cost about \$5,000 to fix. The following

³⁴ The Commissioner had first-hand knowledge of the condition of the lawnmower because he used the lawnmower for his job responsibilities.

month, the Commissioner expressed interest in purchasing the lawnmower and valued it at \$800.

The fair market value for a used 2009 Gravely 260 lawnmower is approximately \$3,500.³⁵ Investigators shared this information with the Commissioner. In response, he stated, "I just told them I'd give them \$800 for it. I made the offer, they accepted it. They had full range to turn it down if they wanted to, but they accepted it."

The Commissioner also told investigators he has not paid for any repairs or parts for the lawnmower. The Commissioner stated that he uses the lawnmower regularly to cut his grass, despite telling the Board that the lawnmower would cost \$5,000 to fix.

Resulted in \$2,700 that was Not Available for the Benefit of Town Residents

As a result of the Commissioner's role in the sale of the lawnmower, the Town lost approximately \$2,700 that could have been used for the benefit of Town residents.

Caused by Lack of Adequate Board Oversight

The sale of the lawnmower below fair market value happened because the Board failed to perform due diligence when they accepted the \$800 offer for the lawnmower. Specifically, the Board did not request any supporting documentation to ensure the Town received fair market value.

Although one Town Commissioner attempted to maximize the proceeds of the lawnmower by suggesting a sealed bid process, the sale of the lawnmower was approved by a vote of 2 to 1. The Town Commissioner who made the motion for the sale of the lawnmower to the other Commissioner referred to him as "his buddy."

Town Policies and Procedures Manual

The *Town of Gaston Policies and Procedures* manual stipulates that:

- no employee shall seek personal or financial advantage because of his/her position with the Town.
- engaging in a scheme for personal profit in connection with official duty or city property is unacceptable behavior.

The Commissioner's purchase of the Town lawnmower below fair market value is an example of a personal and financial advantage.

RECOMMENDATION

The Board should enhance their oversight and monitoring to ensure any actions taken are in the best interest of the Town residents.

The Board should ensure the Town receives fair market value for the sale of assets.

³⁵ Investigators performed a price analysis involving 11 lawnmowers of similar make, model, and year that were currently for sale online and determined the average price was \$3,485. In addition, investigators obtained an informal quote of \$3,000 - \$4,000 from a local lawnmower dealership.

5. TOWN OFFICIALS FAILED TO SAFEGUARD TOWN ASSETS

Assets belonging to the Town of Gaston (Town) were not safeguarded. Specifically, vehicle and fuel card use were not monitored. As a result, there was an increased risk of misuse of Town assets. Vehicles and fuel cards were not safeguarded because the Town did not have written policies in place regarding vehicle and fuel card use. Guidance from the Local Government Commission (LGC) requires assets belonging to the Town to be safeguarded.

Town Assets not Safeguarded

Town assets were not safeguarded. Specifically, there were no measures implemented to deter or detect misuse of the Public Works Department's vehicles and fuel cards.

Vehicles

Vehicle inventory records were not maintained for Public Works Department vehicles. Further, the use of these vehicles was not monitored. Specifically, the Town:

- could not provide a complete listing of the vehicles assigned to the Public Works Department.
- did not monitor the usage of Public Works Department vehicles to ensure they were being used only for Town business.
- did not require employees to complete a sign-out sheet³⁶ when using Public Works Department vehicles.
- did not maintain mileage logs for Public Works Department vehicles.
- could not provide vehicle usage information including purpose, dates, mileage, and drivers of Public Works Department vehicles.
- kept keys to Public Works Department vehicles in an unlocked desk drawer in an unlocked office.

Fuel Cards

Five fuel cards that were assigned to the Public Works Department were not monitored.

Specifically, the Town:

- did not assign the fuel cards to an individual or vehicle.
- did not restrict or limit employee access to the five fuel cards.
- did not require employees to submit receipts or any form of justification for fuel card use.³⁷
- did not review monthly fuel card statements, including monitoring for irregularities.

³⁶ The Mayor stated there is a Town Policy requiring employees to complete a sign-out sheet when using Town vehicles.

³⁷ Fuel card(s) were used by Public Works Department employees to purchase fuel for vehicles, lawnmowers, and gas-powered equipment.

Resulted in Increased Risk of Misuse and Fraud of Town Assets

Because the Town assets were not properly safeguarded, there was a greater risk of misuse and fraud of both the vehicles and fuel cards assigned to the Public Works Department.

Caused by Lack of Town Policy

The Town did not have written policies in place regarding vehicle and fuel card use. According to the Public Works Foreman, "...employees at the Town of Gaston do not misuse the vehicles..." indicating no need for the tracking of vehicle and fuel card use.

Local Government Commission Requirements

LGC guidance³⁸ required the Town to safeguard assets. Specifically, the guidance states that:

Elected officials and governmental employees are **accountable** for resources entrusted to them and for ensuring that programs and services are administered effectively and efficiently. A significant component in fulfilling this responsibility is ensuring that an **adequate system of internal control** exists within each governmental unit. *[Emphasis Added]*

The control procedures that each unit implements should include controls that **safeguard assets**, ensure that financial information is accurate and reliable and that each unit complies with applicable laws and regulations. *[Emphasis Added]*

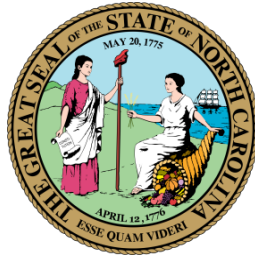
Having measures to deter or detect misuse of the vehicles and fuel cards would be a way to safeguard those assets.

RECOMMENDATIONS

The Town Board of Commissioners should establish written policies which include controls that safeguard assets such as vehicles and fuel cards. Further, the Town Board of Commissioners should develop procedures to ensure that the policies are being followed.

The Town Board of Commissioners should ensure the Public Works Foreman and the Clerk receive training regarding measures that deter and detect misuse of Town assets.

³⁸ Memorandum 2015-15



MATTER FOR FURTHER CONSIDERATION

FORENSIC AUDIT NEEDED

The Town of Gaston (Town) Board of Commissioners (Board) should consider employing a specialized Certified Public Accountant to perform a forensic audit³⁹ of the Town finances. As noted in the 'Executive Summary,' substantial Office of the State Auditor (OSA) resources were required to investigate the nine allegations received for the Town. This was due to a significant lack of documentation to support accounting transactions posted to the general ledger. **However, the nine allegations may not encompass all of the errors, unauthorized transactions, or potential fraud that might have occurred.**

Due to the fact that there is a significant lack of internal controls and supporting documentation, there is an increased risk of:

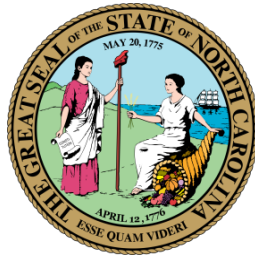
- Fraud
- Town assets being used for personal use
- Inaccurate financial reporting
- Accounting errors

Without proper internal controls to safeguard from these risks, they could continue to go undetected.

A forensic audit would assist the Board in discovering if there is **fraud, inaccurate reporting, or accounting errors.**

Further, the Local Government Commission should mandate that the Board pursue this option.

³⁹ A forensic audit is an examination and evaluation of an entity's financial records and is used to uncover criminal behavior such as fraud or embezzlement.



APPENDIX

Appendix: Town of Gaston Deposit Slips and Corresponding Notes

TOWN OF GASTON GENERAL FUND		
DATE	DOLLARS	CENTS
12/16/15	120	00
CURRENCY		
COINS		
TOTAL CASH	120	00
CHECKS		
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
TOTAL FROM OTHER BASE OR ATTACHED LIST	120	00

DEPOSIT
TOWN OF GASTON
TOWN CLERK

151

TOWN OF GASTON GENERAL FUND		
DATE	DOLLARS	CENTS
12/4/15	150	00
CURRENCY		
COINS		
TOTAL CASH	150	00
CHECKS		
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
TOTAL FROM OTHER BASE OR ATTACHED LIST	150	00

DEPOSIT
TOWN OF GASTON
TOWN CLERK

151

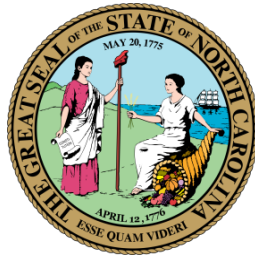
*\$150.00
Cash deposit
for check # 8814*

*\$100.00 Cash deposit #8770
Cash for check*

*\$50.00 adv. in paycheck
Cash reimbursement.*

*no checks signed -
used \$69.00 of the cash to
reimburse cash drawer. Total
deposit \$81.00*

*\$100.00
Cash 4 Check
#8770
\$150 total -
used \$50.00 from
this to reimburse
cash drawer!*



RESPONSE FROM THE TOWN OF GASTON

CHICHESTER LAW OFFICE
PRACTICING AS A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

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* GILBERT W. CHICHESTER
GEOFFREY P. DAVIS

*CERTIFIED MEDIATOR

August 11, 2021

Beth Wood
North Carolina State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0600
Via US Mail
and e-mail to kevin_thomas@ncauditor.net

Re: **Town of Gaston’s Response to
Draft of Your Investigative Report**

Dear Ms. Wood,

My name is Geoffrey P. Davis and I am writing you today on behalf of the Town of Gaston in response to the draft of an investigative report that was sent to the Town on July 28th, 2021. I currently serve as Town Attorney, having been hired in that capacity in August of 2018.

The Town Commissioners met Monday, August 9th, and we discussed these allegations in closed session. They authorized me to draft this response, and also took the first steps to address the concerns that were articulated in your draft report.

To better aid me in responding to each of the allegations, I will try to follow the same format of your report, addressing each of your findings in the order enumerated in the “background” section.

- 1. Town Employees Received \$39,072 in Unauthorized Employee Loans**
- 2. Town Clerk Obtained \$4,410 in Unallowed Vacation Pay**
- 3. Town Clerk Commingled Personal and Town Funds**

In an effort to respond to this allegation, I spoke with the part-time Assistant Town Clerk who originally identified some of the discrepancies you allege, as well as the members of the Board who were present in 2017 when several of these issues first came to their attention.

As a result, I can confirm that their responses to me align with your findings. The loans the Town Clerk issued were unauthorized, and made in violation of Town policy. Moreover, once they were identified, the employees who received the loans were apparently allowed to pay them back based on a verbal agreement. Still more concerning are the actions of the Town Clerk, who issued payroll checks without obtaining a second signature as required by Town policy, who was paid vacation pay while still working, and who clearly co-mingled funds from her personal accounts with the Town's.

As far as the Town can tell, the Clerk knew or should have known at the time that the above actions were improper and in violation of established law, policies and procedures. While she bears responsibility for these actions, they would have been caught much earlier had the Town Board exercised stricter oversight of her actions, and in some cases might not have ever taken place.

Based on our discussions in closed session Monday night, I believe that the Commissioners all understand how the Town finds itself in this situation, and that actions must be taken to ensure that it does not happen again. I have reviewed the recommendations outlined in your report, and the Board is already taking steps to implement some of them.

First, and most significantly with respect to the current findings, the Town Clerk whose actions are at issue in these matters is no longer employed with the Town. We swore-in a new Town Clerk Monday night, and if anything, I hope that this process will help to illustrate to our new Clerk how to ensure best practices when she is dealing with Town money. We also anticipate that the long-delayed 2020 annual audit will soon be delivered to the Town, and I have discussed the possibility of retaining a CPA to perform a forensic audit to discover any additional errors or unauthorized transactions.

Additionally, after our closed session Monday night, the Town passed a motion to prohibit the Town Clerk from signing a check to herself, even if that check is co-signed by another authorized person. Frankly, I was surprised that this policy did not already exist in Gaston. They also discussed at length their options for exercising better oversight over Town expenditures, and welcome any help or advice your office can provide as we continue to work through this process.

Finally, with respect to the former Town Clerk at issue, I believe that we must make an effort to recover the amounts of money she received improperly. I received unanimous consensus in closed session in support of making an effort to recover these funds, but I am waiting until this report is made public before I take action.

4. Commissioner Purchased Used Town Equipment...Below Fair Market Value

Regarding the transaction involving the lawnmower, I believe the facts are exactly as you state, however, I would like to add the following qualification: the Commissioner who purchased the lawnmower did not participate in the vote that authorized the private

sale. At the time, I believe that the Board was focused on the provisions of N.C. Gen. Stat. §160A-266 which allows private negotiation and sale for personal property valued under \$30,000.00.

However, they failed to ensure that the offer made by the purchasing Commissioner was in line with the fair market value for that asset. I have explained to them how, in light of your findings, this transaction deprived the Town of an offer that potentially would have been closer to the fair market value. Additionally, I have explained to them that this situation was made more problematic by the fact that a Commissioner was the purchaser in question.

In future, I do not believe that the current Board will attempt to dispose of assets in this fashion. I have advised them that they need to make an effort to obtain fair market value for any Town assets they dispose of, even when said disposition occurs under N.C. Gen. Stat. §160A-266.

5. Town Officials Failed to Safeguard Town Assets

With respect to the last finding in your report, I am surprised that the Town could not provide a current listing of Public Works vehicles. This should be relatively easy to remedy, and in future, the Town should endeavor to keep better records. They should also endeavor to keep better track of their use of vehicles and fuel.

I have discussed creating formal Town policies regarding both vehicles and fuel cards. These are necessary, and will be forthcoming. Once established, I have discussed with individual Commissioners ways in which they can ensure that the policies are being followed.

The Town of Gaston Will Take Action to Remedy these Deficiencies

As I stated upfront, the Town does not dispute any of your findings. In fact, the Town hopes that the results of this audit will serve as an opportunity to correct the issues you have discovered through this process, and to establish policies and procedures to prevent these situations in the future. Moreover, the Town will cooperate fully with any subsequent investigations, as well as any recommendations made by the Local Government Commission in response to your report.

Very truly yours,

CHICHESTER LAW OFFICE



Geoffrey P. Davis

ORDERING INFORMATION

COPIES OF THIS REPORT MAY BE OBTAINED BY CONTACTING:

Office of the State Auditor
State of North Carolina
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0600

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Facsimile: 919-807-7647
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To report alleged incidents of fraud, waste or abuse in state government contact the
Office of the State Auditor Fraud Hotline:

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Internet: <http://www.auditor.nc.gov/pub42/Hotline.aspx>

For additional information contact the
North Carolina Office of the State Auditor at:
919-807-7666



This investigation required 1,465 hours at an approximate cost of \$152,469.