

Town of Robbinsville

Robbinsville, NC

Investigative Audit Report

December 2023

UNBIASED. IMPACTFUL. IRREFUTABLE.



A Department of the
State of North Carolina



Executive Summary

Purpose

The Office of the State Auditor initiated an investigative audit in response to 23 allegations received regarding the Town of Robbinsville (Town). The allegations that were substantiated are included in this report.

Background

The Town is located in Graham County, North Carolina. According to the 2022 census population estimate, the Town had approximately 545 residents.¹ The Town operates under a Mayor-Council form of government, whereby the Mayor is elected directly by the voters and serves as the Town's chief executive officer. A separately elected three-member Town Council is responsible for setting policy for the Town.

For the fiscal year ended June 30, 2024, the Town operated on a budget of approximately \$1.8 million for the General Fund and the Water and Sewer Enterprise Fund.

Key Findings

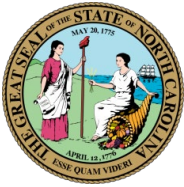
- Town Council members overrode internal policies and laws, and overruled decisions made by Town employees.
- The Town failed to take action to issue corrected Wage and Tax Statements (W-2) to former Town officials and employees.
- The Town and the Town's Tourism Authority violated North Carolina Open Meetings Law.
- The Town did not complete its monthly bank reconciliations.

Key Recommendations

- The members of the Town Council should ensure that they follow Town policies and all applicable laws.
- The Town Council should issue corrective W-2s to former employees and comply with federal and state law.
- The Town Council and the Town's Tourism Authority should ensure that all members as well as others responsible for meetings are knowledgeable about and adhere to state laws governing public meetings.
- When key positions are vacant, the Town Council should consider alternative approaches to ensure key functions, such as timely bank reconciliations, continue to be performed.

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

¹ Bureau, U.S. Census. "City and Town Population Totals: 2020-2022". Census.gov. U.S. Census Bureau. Retrieved August 25, 2023.



North Carolina Office of the State Auditor

www.auditor.nc.gov

Auditor's Transmittal

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Shaun Adams, Mayor
Town of Robbinsville Town Council

Ladies and Gentlemen:

Pursuant to North Carolina General Statutes § 147-64.6(c)(16) and 147-64.6B, we have completed an investigative audit of allegations concerning the Town of Robbinsville. The results of our investigative audit, 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 N.C.G.S. § 147-64.6(c)(12). We appreciate the cooperation received from the management and employees of the Town of Robbinsville during our investigative audit.

Respectfully submitted,

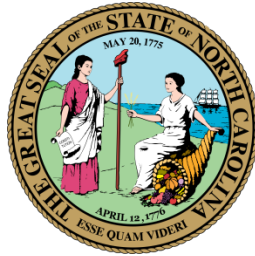
A handwritten signature in cursive script, reading "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

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Chapter 147, Article 5A of the North Carolina General Statutes gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.



Background

The Office of the State Auditor initiated an investigative audit in response to 23 allegations received regarding the Town of Robbinsville (Town). The allegations that were substantiated are included in this report.

Our investigative audit procedures included:

- Review of applicable state and federal laws, Town policies and procedures, North Carolina Local Government Commission guidance, and best practices for governments.
- Examination and analysis of available documentation related to the allegations.
- Interviews with current and former personnel from the Town and Town officials.

This report presents the results of the investigative audit, which was conducted pursuant to North Carolina General Statutes §§ 147-64.6(c)(16) and 147-64.6B. This report does not constitute an audit or attestation engagement conducted in accordance with generally accepted government auditing standards.

Town of Robbinsville

The Town is in Graham County, North Carolina. According to the 2022 census population estimate, the Town had approximately 545 residents.²

The Town operates under a Mayor-Council form of government, whereby the Mayor is elected directly by the voters and serves as the chief executive officer of the Town. The Mayor oversees the general administration of the Town.

The Town Council is made up of three elected Town Alderman. The Town Council is responsible for setting policy for the Town.

For the fiscal year ended June 30, 2024, the Town operated on a budget of approximately \$1.8 million for the General Fund and the Water and Sewer Enterprise Fund.

Robbinsville Tourism Authority

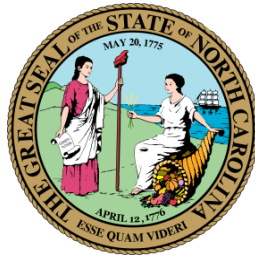
On November 20, 2013, the Robbinsville Town Council created the Robbinsville Tourism Authority (Authority) to promote travel and tourism within the Town of Robbinsville. According to the Authority's *Rules of Procedure*,

The Authority may also conduct or cooperate with other entities in preserving, enhancing, and programming our historic and natural environment and sponsoring programs and activities designed to upgrade services to improve Robbinsville's attraction to its visitors.

The Chair of the Authority must be a member of the Town Council. Other members of the Authority are appointed by the Town Council.

For the fiscal year ended June 30, 2023, the Authority operated on a budget of approximately \$58,000.

² Bureau, U.S. Census. "City and Town Population Totals: 2020-2022". Census.gov. U.S. Census Bureau. Retrieved August 25, 2023.



Findings and Recommendations

1. Town Council Disregarded Its Responsibility to the Town

The Town of Robbinsville (Town) Town Council overrode policies and law. As a result, the Town Council promoted a culture for Town employees that not following the rules is acceptable.

The override was due to intentional disregard by the Town Council for its responsibility to fix issues identified in a prior investigative audit performed by the Office of the State Auditor and carry out its duties in accordance with Town procedures and governing laws. Also, the Town Council did not have a written Code of Ethics.³

The Government Accountability Office (GAO) requires the oversight bodies, such as Town Councils, to lead by an example that demonstrates the organization's values, philosophy, and operating style so that these priorities are understood by all stakeholders, such as regulators, employees, and the general public. Further, the GAO states that the attitudes and behaviors of oversight bodies reflect what is expected throughout the government.

Override of Policies and Law

The members of the Town Council overrode internal policies and laws and overruled decisions made by Town employees.

Specifically, the Town Council:

- Failed to take action to issue corrected Wage and Tax Statements (W-2) to former Town officials and employees in response to a 2019 investigative audit performed by the North Carolina Office of the State Auditor (OSA) (see Finding 2).
- Violated open meetings laws (see Findings 3 and 4).
- Overrode internal policies and procedures. For example, the former Finance Director⁴ refused to issue a \$414 mileage reimbursement to a Town Alderman⁵ due to a lack of prior approval for travel and supporting documentation of a valid business purpose for the travel. The Town Alderman overrode this decision by issuing and signing a check to herself with the Mayor as a cosigner (see Finding 5).
- Failed to address issues that were brought to their attention in their annual financial statement audit. For example, during the fiscal years ended June 30, 2020, and 2021 audits, the Town's financial statement auditors communicated a lack of routine inventory counts over their water and sewer maintenance inventory. The Town Council failed to ensure that the audit findings were resolved.

The Town Council's override dates back to at least July 2016. In fact, the OSA issued an investigative audit report⁶ in May 2019 which listed the following examples:

- Between July 2016 and February 2018, Town employees and officials spent more than \$34,000 on credit card purchases without adequate documentation to support a business purpose.

³ A Code of Ethics is required per North Carolina General Statute § 160A-86.

⁴ The former Finance Director employment with the Town was terminated by the Town Council in July 2022.

⁵ The Town Alderman also serves as the Chairman of the Robbinsville Tourism Authority.

⁶ <https://files.nc.gov/nc-auditor/documents/reports/investigative/INV-2019-0307.pdf?VersionId=FWDXd814p8KOwDCX.13L4M2u7X5EUt8B>

- During the period July 2016 to November 2017, Town officials and employees spent more than \$30,000 on fuel without adequate documentation to support a business purpose.
- From July 2016 through December 2017, Town officials and employees received more than \$15,900 in fringe benefits that was excluded from income.

Resulted in a Message to Town Staff That Not Following Rules is Acceptable

Town Council members set an example for all Town employees through their actions, attitudes, and behaviors. Town Council members overriding policies and disregarding laws could result in staff exhibiting or practicing unethical behavior, engaging in fraudulent activity, and not supporting a system of internal controls.

In addition, overriding policies and disregarding laws could diminish the public's confidence and trust in the Town Council.

Caused by Intentional Disregard of Responsibilities

Town Council members disregarded their responsibilities as the governing board of the Town.

At the July 6, 2022, Town Council meeting, in a discussion with the former Finance Director regarding the Town Alderman's mileage reimbursement, one of the Aldermen addressed the other Aldermen by saying "We are the boss... what we do say needs to go." At the end of the discussion, the Alderman told the former Finance Director, "You are just still an employee... I am a Town Alderman."

Per the University of North Carolina School of Government,⁷

County and city governing boards must operate transparently, in a public setting, and are entrusted to carry out their work legally and ethically. Local governing boards have a direct influence on the culture, effectiveness, and efficiency of county and city governments...

Members of the Town Council have disregarded the responsibilities of their position to the detriment of the Town.

Also Caused by a Lack of Written Code of Ethics

The Town Council did not have a written Code of Ethics on which to rely when making decisions on behalf of the Town.

Per North Carolina General Statute § 160A-86, the Town Council is required to adopt a resolution or policy containing a code of ethics to guide the actions of the Town Council, including obeying all applicable laws regarding official actions taken as a member of the Town Council.

Investigators asked for a copy of the Town Council's Code of Ethics and the Mayor could not locate a Code of Ethics for the Town Council.

⁷ *County and Municipal Government*, Part 1. Local Government Basics, Chapter 3, County and City Governing Boards.

United States Government Accountability Office

Best practices identified by the Government Accountability Office (GAO) state,

1.03 The oversight body and management lead by an example that demonstrates the organization's values, philosophy, and operating style. The oversight body and management set the tone at the top and throughout the organization by their example, which is fundamental to an effective internal control system...⁸

1.04 The oversight body's and management's directives, attitudes, and behaviors reflect the integrity and ethical values expected throughout the entity. The oversight body and management reinforce the commitment to doing what is right, not just maintaining a minimum level of performance necessary to comply with applicable laws and regulations, so that these priorities are understood by all stakeholders, such as regulators, employees, and the general public.⁹

Recommendations

The members of the Town Council should ensure that they follow Town policies and all applicable laws.

The Town Council should develop a written Code of Ethics for the Town Council and ensure they are followed by all members of the Council.

The members of the Town Council should work with the UNC School of Government to attend training detailing their responsibilities as the governing board of the Town.

2. Town Officials Failed to Execute Corrective Action Over \$15,900 in Fringe Benefits Excluded from Income

The Town of Robbinsville (Town) failed to take action to issue corrected Wage and Tax Statements (W-2) to former Town officials and employees. As a result, the Town is potentially at risk of IRS penalties and fees.

The Town Council refused to provide the information needed to issue corrected W-2s. The Internal Revenue Code (IRC) requires employers to provide a W-2 that includes, among other things, the total amount of wages¹⁰ paid to the employee.¹¹ The IRC further states that any employer that provides an inaccurate W-2 may face a monetary penalty.¹²

Failure to Execute Corrective Action

The Town failed to take action to issue corrected Wage and Tax Statements (W-2) to former Town officials and employees.

⁸ U.S. Government Accountability Office, Standards for Internal Control in the Federal Government, September 2014, §§ 1.03-1.04.

⁹ Ibid.

¹⁰ The IRC defines wages as all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash. 26 U.S.C. § 3401.

¹¹ 26 USC § 6051(a).

¹² 26 USC § 6722(a)(2)(B).

The Town was made aware in May 2019 when the OSA issued an investigative audit report¹³ that reported \$15,900 in fringe benefits was excluded from W-2s provided to Town officials and employees.

The investigative audit report found that the following was excluded from W-2's:

- \$7,900 in gift cards.
- \$8,000 in payments in lieu of health insurance benefits.
- The former Mayor and Town Alderman's personal use of a Town vehicle.

According to the current Town Mayor, the Town has not issued corrected W-2s to any of the former Town officials or employees.

Resulted in Potential IRS Penalties and Fees

The Town's failure to issue corrected W-2's to former Town employees resulted in an increased risk of IRS penalties and fees to the Town.

The penalties and fees could include \$250 per inaccurate statement and return, not to exceed \$1 million in a calendar year.

Instances involving an intentional disregard can result in harsher penalties being assessed.¹⁴

As the Town was notified in May 2019 by OSA of the Town's failure to include \$15,900 in fringe benefits and the need to issue corrected W-2s, but failed to do so, the IRS could consider this an "intentional disregard" to issue correct payee statements.

Also Resulted in the Employee's Exposure to IRS Penalties

Former Town officials and employees are exposed to IRS penalties by the Town's failure to issue corrective W-2s.

Federal requirements¹⁵ state that the penalty for the failure to file accurate information on tax returns could be 20% of the underpayment, plus interest. The IRS charges interest on underpayments starting on the due date of the amount owed and will continue to accrue until the balance is paid in full.¹⁶

Due to the Town Council's Failure to Cooperate

According to the Town Mayor, the Town Council failed to cooperate in an effort to issue corrected W-2s.

The Mayor told investigators that he repeatedly requested that the Town Council provide the necessary information to issue corrected W-2s, including amounts to be included in the corrected W-2s. However, the Town Council refused to provide the information necessary to issue corrected W-2s.

¹³ <https://www.auditor.nc.gov/documents/reports/investigative/inv-2019-0307-0/open>.

¹⁴ 26 USC § 6722 (a)(1), 26 USC § 6722(d)(1)

¹⁵ 26 USC § 6662.

¹⁶ 26 USC § 6601.

Internal Revenue Code Requires Correct Information

The Internal Revenue Code (IRC) requires employers to provide a W-2 that includes, among other things, the total amount of wages¹⁷ paid to the employee.¹⁸ The IRC further states that any employer that provides an inaccurate W-2 may face a monetary penalty.¹⁹

Recommendations

The Town Council should issue corrective W-2s to former employees and comply with federal tax law.

The Town Council should cooperate with one another to ensure that the Town follows all rules and regulations.

This finding will be referred to the Internal Revenue Service for assessment and collection of any additional taxes, penalties, and interest.

3. Town Violated Open Meetings Law

The Town of Robbinsville (Town) Town Council violated the North Carolina open meetings law²⁰ by

- Not properly entering closed sessions.²¹
- Discussing items in closed session that should have been discussed in open session.
- Not maintaining meeting minutes for closed session meetings.

As a result, the Town Council improperly limited public transparency and accountability. Additionally, any person may initiate a legal suit asking that any action taken in closed session that should have been discussed in open session be deemed null and void.²²

According to the former Finance Director, multiple violations of open meetings law occurred because the former Finance Director and the Town Council were unaware of the laws surrounding public meetings.

State law requires the Town Council to cite one or more permissible purposes for entering closed session,²³ provides a list of permissible purposes allowed to be discussed in closed session,²⁴ and requires public entities to maintain full and accurate minutes for all official meetings, including closed sessions.²⁵

¹⁷ The IRC defines wages as all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash. 26 U.S.C. § 3401.

¹⁸ 26 USC § 6051(a).

¹⁹ 26 USC § 6722(a)(2)(B).

²⁰ Chapter 143, Article 33C of North Carolina General Statutes.

²¹ A portion of a meeting closed to all but Council members and invited guests.

²² North Carolina General Statute § 143-318.16A(a).

²³ North Carolina General Statute § 143-318.11(c).

²⁴ North Carolina General Statute § 143-318.11(a).

²⁵ North Carolina General Statute § 143-318.10(e).

Violation of Open Meetings Law

From July 2019²⁶ through June 2023, the Town Council violated the state law by:

- Not properly entering closed sessions.
- Discussing non-permissible topics in closed session that should have been discussed in open session.
- Failing to maintain complete meeting minutes of closed sessions.

Not Properly Entering Closed Session

From July 2019 through June 2023, the Town Council held 56 meetings. The Town Council entered into closed session during 36 of the 56 meetings (64%). For 28 of the 36 closed sessions (78%), the meeting minutes for the open session show that the Town Council did not properly cite all of the information required to enter into closed session.

The open session minutes reflect that the Town Council did not disclose the section of the North Carolina General Statute § 143-318.11(a) to indicate the permissible purpose for which the closed session would be held.

Discussing Non-permissible Topics in Closed Session

According to the closed session minutes that were kept by the Town, in three closed session meetings the Town Council discussed items that should have been discussed in open session.

Specifically, the Town Council discussed the following unallowed items in closed sessions:²⁷

- April 7, 2021 – Discussed an employee's pay upon termination.
- June 1, 2022 – Discussed how unused budget funds could be spent.
- July 6, 2022 – Discussed an employee's question regarding Town policies and procedures.

None of these discussions are one of the permissible purposes listed in state law that may be discussed in closed session.

Failing to Maintain Complete Meeting Minutes

From July 2019 through June 2023, the Town Council entered closed session during 36 of the 56 meetings held (64%). The Town did not maintain meeting minutes for 29 of the 36 closed session meetings (81%).

Improperly Limited Public Transparency and Accountability

The Town Council's failure to properly enter into closed session and the discussion of unallowed topics in closed session limited the public's ability to be informed about the operations and performance of their government and to hold Town officials accountable.

Further, because the Town did not maintain meeting minutes for 81% of its closed session meetings, there is no official record of decisions made on important issues such as personnel, economic development projects, acquisition of property, investigations of alleged criminal misconduct, public safety matters, etc.

²⁶ Auditor review began July 2019.

²⁷ Other items were also discussed in the meetings. The items listed in this report are the items that were discussed in closed session that should have been discussed in open sessions.

Actions May Be Null and Void

Any decisions made by the Town Council that relate to items discussed in closed session that should have been discussed in open session are at risk of being deemed null and void.

Specifically, North Carolina General Statute § 143-318.16A states:

Any person may institute a suit in the superior court requesting the entry of a judgment declaring that any action of a public body [that] was taken, considered, discussed, or deliberated in violation of this Article [including N.C.G.S. § 143-318.11]. Upon such a finding, the court may declare any such action null and void.

Town Officials Were Unaware of State Law

According to the former Finance Director, she was unaware she was not keeping Town board minutes in accordance with state law, which would include citing a permissible purpose to enter closed session and maintaining minutes for all closed sessions. The former Finance Director acknowledged that she did not include a citation for the reasons entering closed session.

As for not maintaining closed session minutes, she stated that she did maintain minutes for the seven sessions she was allowed to attend. For those other sessions, which she was not allowed to attend, she believed the responsibility fell to the Town Council. However, no minutes were maintained for 29 out of 36 closed sessions.

Further, members of the Town Council stated that they relied on their Town Attorney to advise them if they were discussing items in closed session that should have been discussed in open session. The available meeting minutes do not indicate whether the Town Attorney was present at the closed session meetings.

North Carolina General Statutes

North Carolina General Statute § 143-318.11(c) requires the Town Council to cite a permissible purpose when holding a closed session. In some instances, the Town Council shall also provide additional information. Specifically,

A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

North Carolina General Statute § 143-318.11(a) provides the permitted purposes for which a closed session can be held. The Town Council's discussions of employee pay, use of excess budgeted funds, and Town policies are **not** one of the permitted purposes.

Additionally, North Carolina General Statute § 143-318.10(e) requires public bodies to maintain closed session minutes. Specifically,

Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired.

Recommendations

The Town Council should ensure that all members, as well as others responsible for Council meetings, are knowledgeable about and adhere to state laws governing public meetings.

The Town Attorney should advise the Town Council when items discussed in closed session are not in compliance with state law.

The Town Council should consult the Town Attorney and adhere to legal advice regarding public meetings.

4. Robbinsville Tourism Authority Board Violated Open Meetings Law

The Town of Robbinsville (Town) Tourism Authority Board (RTA Board) violated the North Carolina open meetings law²⁸ by not properly entering closed sessions.²⁹ Further, the RTA Board did not maintain meeting minutes for some of its closed session meetings held during 2021 and 2022.

As a result, the RTA Board improperly limited public transparency and accountability.

According to the former Town Clerk, multiple violations of the open meetings law occurred because the former Town Clerk and the RTA Board were unaware of the laws surrounding public meetings.

State law requires the RTA Board to cite one or more permissible purposes for entering closed session³⁰ and requires public entities to maintain full and accurate minutes for all official meetings, including closed sessions.³¹

Violation of Open Meetings Law

From July 2020³² through August 2022, the RTA Board violated state law by (1) not properly entering closed sessions and (2) failing to maintain meeting minutes for some of its closed sessions.

Not Properly Entering Closed Session

From July 2020 through August 2022, the RTA Board held 34 meetings. The RTA Board entered closed session during 25 of the 34 meetings (74%). For all 25 closed sessions (100%), the meeting minutes for the open session do not reflect that the RTA Board cited all the information required to enter into closed session.

Specifically, the open session minutes do not reflect that the RTA Board disclosed the section of the North Carolina General Statute § 143-318.11(a) to indicate the permissible purpose for which the closed session would be held.

Failure to Maintain Complete Meeting Minutes

From July 2020 through August 2022, the RTA Board entered into closed session during 25 of the 34 meetings held (74%). The Town did not maintain meeting minutes for 24 of the 25 closed session meetings (96%).

²⁸ Chapter 143, Article 33C of North Carolina General Statutes

²⁹ A portion of a meeting closed to all but RTA Board members and invited guests.

³⁰ North Carolina General Statute § 143-318.11(c).

³¹ North Carolina General Statute § 143-318.10(e).

³² Auditor review began July 2020.

Improperly Limited Public Transparency and Accountability

The RTA Board's failure to properly enter into closed session and to keep minutes for the closed sessions limited the public's ability to be informed about the operations and performance of their government and to hold Town officials accountable.

Without a record of closed session discussions, there is no way to determine if the RTA Board discussed topics that should only be discussed in open session.

Further, there is no official record of decisions made on important issues such as personnel, economic development projects, acquisition of property, investigations of alleged criminal misconduct, public safety matters, etc.

Caused By Lack of Knowledge

According to the former Town Clerk, the failure to maintain complete meeting minutes is due to a lack of knowledge of state law by the former Town Clerk and the members of the RTA Board. There was no attorney present at the RTA Board meetings to provide guidance to the RTA Board on such matters.

In an email from the former Town Clerk, on which the RTA Director was copied, she stated that prior to August 30, 2022, the RTA Board and the Travel Tourism Director were unaware of the requirement to have closed session meeting minutes recorded and approved by the Board.

North Carolina General Statutes

North Carolina General Statute § 143-318.11(c) requires the RTA Board to cite a permissible purpose when holding a closed session. In some instances, the RTA Board shall also provide additional information. Specifically,

A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

Additionally, North Carolina General Statute § 143-318.10(e) requires public bodies to maintain both open and closed session minutes. Specifically,

Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired.

Recommendations

The RTA Board should familiarize themselves with and adhere to state law requirements to ensure that complete and accurate meeting minutes are maintained for all RTA Board meetings.

5. No Documentation to Support Business Use of Personal Vehicle

The Town Council for the Town of Robbinsville (Town) issued a \$414 mileage reimbursement to a Town Alderman without documentation that the use of a personal vehicle was approved in advance or was for a valid business purpose.

As a result of not requiring documentation of a valid business purpose, the Town does not know if the mileage reimbursement was for official Town business.

The Town Council overrode the former Finance Director to issue the mileage reimbursement. The Town's *Travel Policy* states that the Town will reimburse travel expenses for the purpose of conducting Town business. Further, the policy states that the use of personal vehicles for Town business must be approved in advance.

No Documentation Available to Determine if Mileage Reimbursement Was for Town Business

The North Carolina Office of the State Auditor received an allegation that the Town paid a mileage reimbursement to a Town Alderman that violated the Town's *Travel Policy*.

The Town was unable to provide evidence that the mileage reimbursement was for official Town business because the Town had no documentation related to the location or business purpose of the travel.

The Town issued a check to the Town Alderman in the amount of \$414 on July 11, 2022, for a mileage reimbursement. The mileage report submitted by the Town Alderman reported a total of 707³³ miles over seven trips from March 6 through June 26, 2022. The mileage report did not include a location traveled to or a valid business purpose for any of the seven trips. There was also no documentation to support that the use of a personal vehicle was approved in advance.

Resulted in No Evidence

As a result of the Town not requiring documentation related to the location or business purpose of the travel, the Town does not know if the mileage reimbursed to the Town Alderman was for official Town business.

Caused By Override by Town Council

The Town Council overrode the former Finance Director to issue the mileage reimbursement.

The former Finance Director refused to issue the mileage reimbursement because the location traveled to and the business purpose of the mileage were not documented, and the use of a personal vehicle for Town business was not approved in advance. However, the Town Alderman signed the check **made payable to herself**, with the Mayor as a second signature. The check was signed without the Town Alderman providing any documentation to support that the mileage was for a valid Town business purpose or that the travel was previously approved.

³³ Per the Town's Travel Policy, the 707 miles were reimbursed at a rate of \$0.585 per mile.

Town of Robbinsville Travel Policy

The Town's *Travel Policy* states that travel will be reimbursed if it is for the purpose of conducting **Town business**. The policy also requires that the use of personal vehicles be authorized in advance.

Without proper documentation related to the location or business purpose of the travel, and advanced authorization for the use of a personal vehicle, the Town does not know if the mileage reimbursed to the Town Alderman was for official Town business.

Recommendations

The Town Council should comply with the Town's established policies and procedures.

The Town Council should implement policies and procedures that ensure an Alderman or employee cannot sign a check made payable to themselves.

6. Bank Reconciliations Not Completed

The Town of Robbinsville (Town) did not complete its monthly bank reconciliations. Specifically, as of August 2023, the monthly bank reconciliations for five of the Town's six bank accounts had not been completed since July 2022. As a result, there was an increased risk that accounting errors or the theft or misuse of cash could have occurred and not been detected. Additionally, the Town Council could not ensure that they had accurate and timely information on which to base financial and operational decisions.

The Town did not complete its monthly bank reconciliations because the Finance Director position was vacant.

The North Carolina Local Government Commission (LGC) provides resources, guidance, and oversight to units of local government on internal controls.³⁴ The LGC states that all bank statements should be reconciled promptly upon receipt to help identify any errors or discrepancies.³⁵

Bank Reconciliation Not Completed

As of August 2023, the bank reconciliations for five of the Town's six bank accounts had not been completed since at least July 2022. The average account balance and total transactions for each account that was not reconciled are listed below.

Town Fund	Average Account Balance	Total Transactions During the Period (7/1/22 – 6/30/23)
Tallulah Creek Water Plant	\$1,157,868	22
General Fund	\$602,800	431
Water and Sewer	\$450,433	1400
Payroll	\$77,963	915
Capital Projects	\$7,921	18

³⁴ The staff of the North Carolina Local Government Commission (LGC) is responsible for fulfilling the obligations of the Commission found in North Carolina General Statutes Chapter 159.

³⁵ Memorandum 2015-15, *Internal Controls for a Small Unit of Government*.

A bank reconciliation is a process used to identify and examine discrepancies by comparing the cash balance in the Town's accounting system to the balance reported by the bank. Preparing bank reconciliations monthly helps the Town prevent or detect possible errors or the theft or misuse of cash.

Resulted in Increased Risk of Undetected Errors or Theft

As a result of the monthly bank reconciliations not being performed, there was an increased risk that accounting errors or theft of cash could have occurred and not been detected. Bank reconciliations could detect unauthorized payments or transfers.

Bank reconciliations would have given the Finance Director, or other Town officials, an opportunity to review transactions and to address any mistakes or discrepancies in a timely manner.

Also Resulted in Lack of Accurate, Relevant, and Timely Information

As a result of the monthly bank reconciliations not being performed, the Town Council could not ensure that they had accurate and timely information on the Town's cash flow. Consequently, the Town Council could have unknowingly made unsound financial decisions for the Town based on inadequate information.

Caused by Lack of a Finance Director

According to the Mayor, the bank reconciliations were not completed because the Finance Director position was vacant. The former Finance Director was terminated in July 2022 and since that time, the responsibilities of the role have been transferred to several individuals. Specifically,

- July 2022 – the former Finance Director was terminated. The former Town Clerk assumed the responsibilities of the Finance Director.
- March 2023 – a replacement Finance Director was hired.
- May 2023 – the replacement Finance Director was replaced by the current Finance Director along with an Interim Finance Director to aid in the transition.

During the period that the Town did not have a Finance Director, the responsibility of reconciling bank statements fell to the Town Clerk and Mayor. However, neither performed the bank reconciliations.

North Carolina Local Government Commission

The North Carolina Local Government Commission (LGC)³⁶ states:³⁷

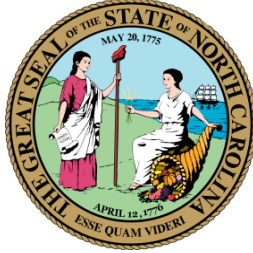
All bank statements should be reconciled promptly upon receipt to help identify any errors or discrepancies. Any discrepancies should be investigated immediately and acted upon accordingly.

Recommendations

When key positions are vacant, the Town Council should consider alternative approaches to ensure key functions, such as timely bank reconciliations, continue to be performed.

³⁶ The staff of the LGC is responsible for fulfilling the obligations of the LGC found in North Carolina General Statutes, Chapter 159.

³⁷ Memorandum 2015-15



State Auditor's Response

This report contains the views of Town of Robbinsville (Town) officials concerning the findings, conclusions, and recommendations in the investigative audit report.

The Office of the State Auditor requested that the Town explain the corrective action they plan to take to address the investigative audit findings and recommendations and:

- The estimated date for implementing the corrective action.
- Who (by title) is responsible for implementing the corrective action.

The Town's response did not include these details. Therefore, the stakeholders of the Town are unable to hold the Town accountable for their corrective action.

Further, the Office of the State Auditor (OSA) strives to provide reports with complete and accurate information to the Governor, the General Assembly, the citizens of North Carolina, and the stakeholders of the Town. When the response of an auditee potentially **obscures** an issue, **misleads** the reader, or **minimizes** the importance of auditor findings and recommendations, OSA provides clarifications regarding the auditee's response.

In their response to this investigative audit report, the Town made statements that may **mislead** the reader or were not relevant.

To ensure complete and accurate information, OSA offers the following clarifications.

No Documentation to Support Business Use of Personal Vehicle

In the Town's response, the Town states:

It was also discussed during that meeting that Debbie Beasley was acting as a contractor and was not an employee of the Robbinsville Tourism Development Authority in her role as interim tourism director, so based on that, the town believes she was not bound by the town of Robbinsville's travel policy, as the town's travel policy does not bind contractors...

This is misleading.

The Town Alderman in question was both a member of the Town Council and the Robbinsville Tourism Authority (RTA) Board. Although she was named as the interim director for the RTA, she was still an elected official of the Town. The Town's *Travel Policy* explicitly states:

The purpose of this policy is to establish procedures for authorization of travel and training expenses by Town employees, elected officials, and appointed officials for the purpose of conducting Town business, and to establish procedures for reimbursement of the cost of authorized travel and other expenses.

Therefore, as a member of the Town Council and the RTA Board, the Town Alderman was still subject to the Town's *Travel Policy*.

Despite this fact, as the investigative audit report clearly states, there was no documentation provided, including an invoice or miles driven, that supported that the mileage was for official Town business.

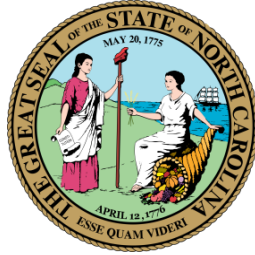
Further, the Town's response states:

...for example the former attorney turned in multiple invoices which contained charges for mileage reimbursement without any explicit documentation on the number of miles driven or the purpose for that travel.

This is not relevant.

The former attorney was not an employee, elected official, or appointed official of the Town. Therefore, the Town's *Travel Policy* did not apply. The former attorney submitted invoices to the Town that included the business purpose for each hour charged.

Again, OSA provides this clarifying information to ensure that this report provides complete and accurate information to the Governor, the General Assembly, the citizens of North Carolina, and the stakeholders of the Town.



Response from the Town of Robbinsville

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LEO J. PHILLIPS

Attorney at
Law

KATIE GLEASON
2 S. SALISBURY STREET
20601 MAIL SERVICE CENTER
RALEIGH, NC 27699

Dear Kathie Gleason:

Below you will find the Town of Robbinsville's formal response to the Office of Auditor's report on the state of this entity. I have reviewed this with the Board, and as the Town Attorney this is our formal response.

TOWN COUNCIL DISREGARDED ITS RESPONSIBILITY TO THE TOWN

The Town of Robbinsville will create a code of ethics and work with the UNC School of Government for the town council to receive training.

TOWN OFFICIALS FAILED TO EXECUTE CORRECTIVE ACTION OVER \$15,900 IN FRINGE BENEFITS EXCLUDED FROM INCOME

The Town of Robbinsville shall issue the correct amended taxes to reflect former Mayor Steve Hooper and former Alderman Jacky Ayers' use of take-home vehicles on a lease rate as required by the Internal Revenue Service, as well as taxing bonuses, gift cards, and any other fringe benefits that need to be taxed. The Town will seek outside professional CPA Services to assist in the correction of these errors.

The current mayor, who was an alderman at the time, spent hundreds of hours over several months attempting to compile a list of all the fringe benefits that needed to be taxed and

placed numerous public records requests that were denied by the town. Still, the town refused to produce many of the documents needed, failed to amend the W2s, admonished and attacked him for attempting to obtain the needed records, and locked the door to the files, preventing him from viewing the records.

Going forward the Town will follow all appropriate accounting rules. The Town will work with the North Carolina Department of Revenue and the Internal Revenue Service to pay all fines and fees owing to these errors. It will also follow all recommendations of both of these agencies.

TOWN VIOLATED OPEN MEETING LAW

The town followed the advice of the former town attorney, M. Ellen Davis, in conducting closed-session meetings. The current mayor, who was an alderman at the time, believed the town was improperly going into closed session and challenged the way the town was going into closed session; during the December 2019 regular meeting, he challenged the town for going into a closed session without stating the purpose; however, the former attorney disagreed with him and still allowed the town to go into closed session, and he also placed it on the agenda for the January 2020 meeting and discussed the proper procedures for going into closed with the attorney. In February 2020, the alderman motioned to terminate the former attorney, but no one seconded the motion.

The town now has a new attorney, Leo J. Phillips, who will ensure that the correct rules of procedure for closed sessions and open meetings are followed. Specifically, if matters that should be handled in open sessions, will be handled in open sessions. Further only matters to be handled in closed sessions will be all that is handled in closed sessions, with the appropriate minutes to be taken. The Town will follow the legal advice of the Attorney for public meetings.

ROBBINSVILLE TOURISM AUTHORITY BOARD VIOLATED OPEN MEETINGS LAW

The former town attorney, M. Ellen Davis, did not attend Robbinsville Tourism Authority meetings; however, the town's new attorney is attending the Robbinsville Tourism Authority meetings and ensuring that proper procedure rules are followed and the minutes are kept accurately.

Going forward the Board will have the Town Attorney preside at all meetings of this Board. Follow his legal advice to ensure all applicable State statutes as to open meetings and to ensure complete and accurate meeting minutes are maintained for all RTA meetings.

NO DOCUMENTATION TO SUPPORT BUSINESS USE OF PERSONAL VEHICLE

The town followed the advice of the former town attorney, M. Ellen Davis, on issuing mileage reimbursement. During the July 6th, 2022, meeting, there was a discussion about

Alderman Debbie Beasley's mileage reimbursement. During the discussion, the former town attorney made several statements related to the town paying Alderman Debbie Beasley the mileage reimbursement, including when Alderman Kenneth Hyde stated, "But we need to get her paid on it." Then town attorney Ellen Davis states, "That has already been authorized." At another point in the discussion, Debbie Beasley addressed the board, asking to get paid, and Alderman Kenneth Hyde asked the attorney if we needed to vote on this. Ellen said, "payment of the interim director should not be an issue. "

The town was also following the advice of the former finance director when she stated that two board members needed to sign off on the invoice to get paid, "What you need to do is give us an invoice for your hours worked and you will be paid as long as it has been approved by two of your board members, which is what your board has chosen to do, and if you turn in your mileage and you have two board members approve it, which has not happened yet then you will also be paid, I don't get to make the rules I only have to follow them." And again, Debbie asked whether a certain type of invoice needed to be used. After a few seconds pause, town attorney Ellen Davis answers, "she needs to answer that," while pointing at finance director Sonya Webster. Then Alderman Kenneth Hyde asked Sonya, "What kind of invoice do you need from her?" Sonya said, "I assume Debbie would have her own way of doing invoices as any other vendor would." The finance officer responded to Debbie about the mileage form and said, "you just need to have it approved then you can be paid." Debbie then tells her, "I have not been given a mileage form to fill out."

The Robbinsville Tourism Authority board voted to pay Debbie in their May 31st, 2022 meeting, and the mayor refused to sign the check until two Robbinsville Tourism Authority board members and the former finance director signed off on the invoice, which they did, and only did that based on the fact that the responsibility for the payment would fall on the members of the Robbinsville Tourism Authority board, and has refused to sign any more RTA-related checks.

It was also discussed during that meeting that Debbie Beasley was acting as a contractor and was not an employee of the Robbinsville Tourism Development Authority in her role as interim tourism director, so based on that, the town believes she was not bound by the town of Robbinsville's travel policy, as the town's travel policy does not bind contractors, for example the former attorney turned in multiple invoices which contained charges for mileage reimbursement without any explicit documentation on the number of miles driven or the purpose for that travel.

Going forward the Town Council will comply with established policies and procedures. The Town will implement policies and procedures that ensure an Alderman or employee cannot sign a check made to themselves. Finally any employee or Alderman shall submit a detailed breakdown for all expenses or request for payment for services completed.

BANK RECONCILIATIONS NOT COMPLETED

The town has been making progress with the bank reconciliations, as it employed two finance officers from May until August, and beginning August 7th of this year, the board of aldermen decided to pay the former interim finance officer as a contractor for over three months to catch up on the bank reconciliations and other financials. Our current finance officer is working on getting the financials caught up. Two accounts are reconciled to September 2023, another is caught up to June 2023, and three are still in 2022.

Going forward the Town will ensure that all bank accounts are reconciled on a minimum of one a month.

Thank you,

Leo J. Phillips

Shawn Adams, Mayor
Keith Hyle, Alderman
Dabrie Beasley, Alderman

Ordering Information

Copies of this report may be obtained by contacting:

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

Telephone: 919-807-7500
Facsimile: 919-807-7647
Internet: <http://www.auditor.nc.gov>



To report alleged incidents of fraud, waste or abuse in state government contact the
Office of the State Auditor Tipline:

Telephone: 1-800-730-8477

Internet: <https://www.auditor.nc.gov/about-us/state-auditors-tipline>

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



This investigation required 447 hours of OSA investigative auditor effort at an approximate cost of \$56,644. Additionally, the cost of the contractor's effort was \$31,987.50. As a result, the total cost for the investigative audit was \$88,631.50.