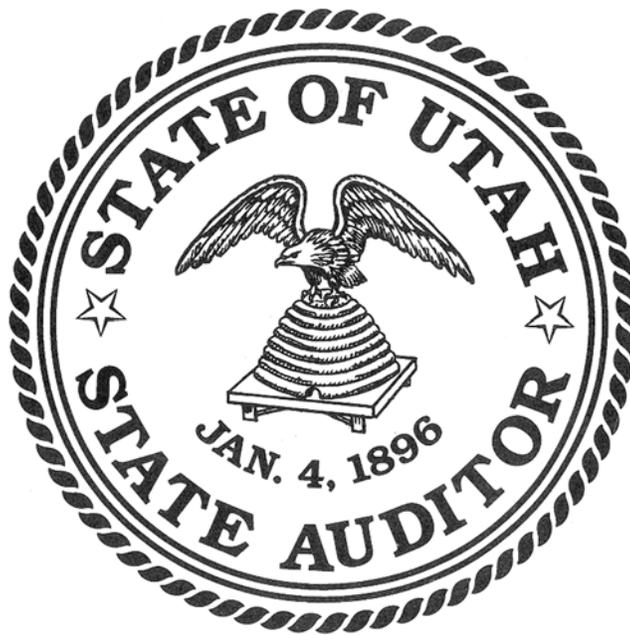


# FAYETTE TOWN

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Special Project  
For the Period February 2009 to February 2018

Report No. FAYT-18-SP



## OFFICE OF THE STATE AUDITOR

### AUDIT LEADERSHIP:

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**FAYETTE TOWN**  
FOR THE PERIOD FEBRUARY 2009 TO FEBRUARY 2018

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OFFICE OF THE  
**STATE AUDITOR**

**REPORT NO. FAYT-18-SP**

January 22, 2019

Mayor Brenda Leifson and Fayette Town Council  
Fayette Town  
HC-13 Box 300564  
Fayette, Utah 84630

Dear Mayor and Council Members:

We have completed a limited review of Fayette Town's (Town's) financial activity, internal controls, and compliance for the period February 2009 through February 2018. In May 2018, the current mayor reported concerns about a possible misappropriation of funds by the former town clerk. The purpose of our review was to quantify the amount of the alleged misappropriation and to identify internal control weaknesses that allowed it to occur without detection. We performed the following procedures at the Town:

1. We analyzed the Town's bank statements and accounting records to identify questionable payments.
2. We reviewed one bank account reconciliation for accuracy and completeness.
3. We reviewed all Town bank account statements, PTIF account activity, and accounting records for any unusual transfers and deposits, or other questionable activity.
4. We performed certain analytical procedures to determine whether the Town's deposits appeared to be within a reasonable range.
5. We reviewed the cash receipting, cash disbursing, recording, and reconciling duties for adequacy of separation of duties for internal control purposes.
6. We reviewed the Town's compliance with certain laws including proper posting of minutes, division of clerk and treasurer duties, procurement, review of expenditures, and financial reporting.

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of Town's internal control or any part thereof. Accordingly, we do not express such opinions. Alternatively, we have identified the procedures we performed and the findings resulting from those procedures. Had we performed additional procedures or had we made an audit of the effectiveness of Town's internal control, other matters might have come to our attention that would have been reported to you.

Our findings resulting from the above procedures are included in the attached findings and recommendations section of this report. We feel that Findings 2, 3, and 4 are key internal control weaknesses to the Town.

We appreciate the courtesy and assistance extended to us by the personnel of the Town during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact me at (801)538-1340.

Sincerely,

A handwritten signature in cursive script that reads "Julie M. Wrigley". The signature is written in black ink and is positioned above the printed name.

Julie M. Wrigley, CPA, CFE  
Audit Manager

## **BACKGROUND**

Fayette Town (Town), located in Sanpete County, Utah, has a population of approximately 250 and is governed by a mayor and five-member council (Town Officials).

After finding some irregularities in the Town’s accounting records, the Town’s newly-elected Mayor reported a possible misappropriation of funds by the Town’s former clerk (Former Clerk) to the Sanpete County Sheriff’s Office. In May 2018, the Sheriff’s Office requested the Office of the State Auditor’s assistance with the investigation.

As detailed in the findings and recommendations below, we concluded that the Former Clerk misappropriated more than \$300,000. The misappropriation continued for at least 9 years— from February 2009 through February 2018—without detection due to a lack of appropriate internal controls and insufficient oversight by Town Officials during that period. It is likely that the misappropriation began well before this period; however, we limited our testwork to the period noted.

Subsequent to our investigation, the former clerk pleaded guilty to three felony counts of Misusing Public Money, §76-8-402, Utah Code Annotated, 1953. On November 21, 2018, the 6<sup>th</sup> District Court ordered the former clerk to spend 45 days in jail and to pay \$153,390.89 plus interest in restitution.

## **FINDINGS AND RECOMMENDATIONS**

### **1. FORMER CLERK MISAPPROPRIATED TOWN FUNDS**

Our analysis indicates that the Former Clerk misappropriated \$303,807 from February 2009 to February 2018. We believe that an additional \$28,933 paid to the Former Clerk was also misappropriated. However, due to passage of time and inadequate documentation, we have not been able to conclude with certainty. These amounts represent approximately 12-13% of the Town’s total revenues during fiscal years 2010-2018. The funds were misappropriated as follows:

	<u>Misappropriated</u>	<u>Questionable</u>	<u>Total</u>
By issuing checks to herself or her husband as the payee	\$ 71,927	\$ 25,350	\$ 97,277
By issuing checks to a company she and her husband own	229,764	-	229,764
By issuing checks that were blank or made to cash	2,116	-	2,116
Through improper reimbursements that were added to her payroll checks	-	2,583	2,583
It appears she received a new water hook-up for which she did not pay	-	1,000	1,000
<b>Total</b>	<b>\$ 303,807</b>	<b>\$ 28,933</b>	<b>\$ 332,740</b>

It appears the Former Clerk used various methods to perpetrate and conceal the misappropriation, including the following:

- Falsifying the payee in the accounting system and on the check images included with the bank statements in order to make the checks appear they were payable to a legitimate vendor;
- Manipulating the Town's accounting system;
- Withholding the improper checks from Town Officials' view by presenting only legitimate checks to Town Officials for review and approval;
- Manipulating the bank reconciliation, which included large reconciling items or "plug figures" to conceal the misappropriated funds; and
- Forging the mayor's or a council member's signature on improper checks.

To analyze the potential misuse of funds and obtain the misappropriated amounts above, we compared original, unaltered check copies obtained directly from the bank to the Town's accounting system and to the altered check images that were maintained at the Town's office. The method used by the Former Clerk to alter the check images was quite unsophisticated and easily identifiable. For the period reviewed, there were 146 check images altered to show a different payee, and an additional 50 checks which had a different payee in the accounting system than on the actual check. We also verified that a total of 175 Town checks (other than payroll checks) were deposited into the Former Clerk's personal bank account.

The Former Clerk also received payments from the Town to reimburse her for alleged expenditures she had made on behalf of the Town. However, the reimbursements appeared to be excessive. Due to a lack of documentation, we estimated reasonable reimbursement to the Former Clerk and considered any other payments she received to be questionable.

### **Recommendations:**

**We recommend that Town Officials:**

- **Seek restitution of misappropriated funds in addition to the court-ordered restitution.**
- **Review and adopt the Best Practices outlined in the Fraud Risk Implementation Guide (see Attachment A)**
- **Implement the recommendations in this report that are designed to minimize the risk of misappropriation or loss without detection (see Findings 2 and 4).**
- **Consider shutting off the Former Clerk's water service related to the \$1,000 hook-up fee above until the fee has been paid.**
- **As funds are recovered, determine methods to return the funds to the citizens through decreased rates or other means so the Town does not reap a windfall.**

## 2. FAILURE TO SEPARATE DUTIES

Proper separation of duties is one of the most effective internal control measures any organization can take to reduce the risk of fraud and to increase the chances of detecting errors. Fundamental to separation of duties is that no single person should have excessive control over transactions or critical processes. As such, *Utah Code* 10-3-916 and 10-3-301 require Town Officials to appoint a clerk/recorder and a treasurer, and specify that the clerk/recorder and treasurer may not be the same person. In small entities, a council member may perform the duties of one of these positions.

Town Officials appointed the Former Clerk as both the clerk and the treasurer and, therefore, the Former Clerk was responsible for receiving and depositing money, maintaining the financial records, retaining custody of the cash and other assets, preparing checks for council approval, signing checks, and reconciling the bank statements to the accounting system. Many of these duties conflict with each other as they create the opportunity to both misappropriate funds and to conceal that misappropriation.

Ideally, proper separation of duties requires a different person to perform each of the following duties:

- Recording entries in the accounting system.
- Authorization and approval of payments and contracts, normally performed by the governing body or a finance director.
- Custody of Assets. This duty refers to the actual physical possession or effective physical control/safekeeping of property. Property can take the form of cash, checks, or other assets.
- Reconciliation of existing assets to recorded amounts. A reconciliation of the bank statements to the accounting records is an example of this duty.

In very small organizations, it is often impractical to separate conflicting duties with existing employees. In such cases, it may be necessary to assign some duties to a member of the governing body or to a contracted third party. It may also be necessary to implement additional procedures to compensate for conflicting duties. There is little evidence that Town Officials provided sufficient oversight or implemented compensating controls to compensate for the Former Town Clerk's conflicting duties (see Findings 3 and 4).

It appears Town Officials were unaware of the law requiring separation of the clerk and treasurer duties. Furthermore, we believe that Town Officials did not understand the importance of separation of duties and did not implement additional procedures to review and reconcile the Former Clerk's work. As a result, the misappropriation occurred and was not detected.

### Recommendations:

**We recommend that Town Officials:**

- **Comply with *Utah Code 10-3-916* and *10-3-301* by appointing separate individuals to function as a treasurer and a clerk. A council member or contracted third party may perform the duties of one of the functions.**
- **Separate conflicting duties as outlined above by delegating duties to council members or contracted third parties. If this is impractical, perform additional oversight and review as discussed in Finding 4.**
- **Ensure all existing and in-coming council members receive training on separation of duties. See Attachment A for link to video.**

### **3. TOWN OFFICIALS FAILED TO PROVIDE ADEQUATE OVERSIGHT**

The funds identified in Finding 1 were misappropriated from the Town by the Former Clerk over a period of at least 9 years. The misappropriation continued without detection because past and current Town Officials allowed the Former Clerk to perform conflicting duties (see Finding 2). Town officials also failed to exercise proper oversight of the financial activity of the Town. The inadequacy of oversight is particularly evident because:

- The amount of the theft averaged approximately 12% to 13% of the Town's annual revenues, which likely impacted the Town's ability to operate and could have been noticed by Town Officials.
- The frequency of the theft occurrences could have been detected by even a limited or infrequent review of the monthly bank statement and bank reconciliation.
- Many legitimate checks reviewed by Town Officials had accounting system check numbers printed on the check that differed from the physical check numbers. Differences in check numbers reveal gaps in check number sequence. This represents a missed opportunity to question the Former Town Clerk that Town Officials apparently did not utilize.
- The length of time over which the theft occurred indicates that multiple Town Officials failed to exercise proper oversight for an extended period of time.

The lack of oversight was caused by multiple Town Officials' failure to take an active interest in financial matters and understand certain laws applicable to the operation of the Town. Town Officials also failed to implement proper separation of duties and other internal controls, as discussed in Findings 2 and 4.

#### **Recommendations:**

##### **We recommend that Town Officials:**

- **Resign if they were in office prior to January 1, 2018. If replacements can not be found, the Town should unincorporate.**

- **Develop or hire the financial expertise necessary to effectively operate the Town, or, unincorporate the Town if appropriate oversight is not established.**
- **Establish internal control procedures that minimize the risk of misappropriation or loss without detection (see also Findings 2 and 4).**
- **Obtain required training and utilize resources provided by the Office of the State Auditor (see Attachment A).**
- **Take an active interest in the financial matters of the Town.**

#### 4. INADEQUATE INTERNAL CONTROLS

Internal controls are policies and procedures used to reduce risk in operations, reporting, and compliance. Town Officials did not ensure the Town had sufficient separation of duties (see Finding 2) and other internal controls, the lack of which provided the opportunity for misappropriation of Town funds and delayed the detection of the misappropriation. The lack of internal controls resulted in the non-detection of misappropriated Town funds, inaccuracy of both external and internal reporting, and the Town's noncompliance with a number of laws and regulations.

We identified the lack of separation of duties as a key internal control weakness in Finding 2 above. In addition, we identify below other internal control weaknesses in the Town that, if corrected, would decrease the risk of misappropriation and increase the chances for detection of misappropriation:

- Incomplete and inadequate review of Town expenditures: Due to the methods the Former Clerk used to misappropriate funds detailed in Finding 1, we concluded that the Former Clerk presented only legitimate checks to Town Officials for review and approval. *Utah Code* section 10-5-123(1)(b) requires all claims to be directly approved by the council. In order for Town Officials to fully perform their duties, they should ensure that all expenditures have been submitted for review. Town Officials should require a complete list of disbursements and ensure that the numerical sequence of checks is complete. As a detective measure, Town Officials should also ensure that someone other than the clerk reviews the original bank statements and bank reconciliation to verify that expenditures clearing the bank are appropriate as described in the bullet below. Town Officials or an appropriate designee should also review supporting invoices or other supporting documentation before approving an expenditure. Had Town Officials performed any of the procedures described above, it is likely the misappropriation would have been detected much earlier.
- Lack of independent review of bank statements and bank reconciliations: The Former Clerk prepared inaccurate bank reconciliations containing many falsifications and "plug figures." In addition, the Former Clerk was able to manipulate the accounting system and change payees and check numbers. It appears that the Former Clerk's primary objective in falsifying the records was to conceal the misappropriation of funds. The bank reconciliation should be prepared by a person who does not: 1) authorize

disbursements, 2) record transactions, or 3) have custody over check stock or cash and checks received. If this is impractical due to a small number of employees, another person, such as a councilmember or treasurer, should perform a detailed review of the bank reconciliation and original bank statement.

- Lack of required financial reports: *Utah Code 10-5-129* requires the town clerk to prepare and present to the council a quarterly financial report and an annual financial report. However, it appears Town Officials did not require or review these reports. Town Officials cannot monitor the finances of the Town without reviewing regular financial activity reports.
- Absence of written fiscal policies and procedures: The Town has not developed written policies and procedures over fiscal matters. In a small entity with frequent changes in leadership, best practices dictate that Town Officials should approve and document the policies and procedures establishing internal controls for the Town. At a minimum, Town Officials should establish and enforce written policies and procedures to correct the internal control weaknesses discussed in this finding and Finding 2. Furthermore, Town Officials should determine other areas where policies and procedures should be established. This may include but is not limited to: purchasing and procurement, cash receipting, accounts receivable, cash disbursements, records retention, fixed assets tracking and safeguarding; budgeting, and safeguarding of cash and sensitive data. Written fiscal policies and procedures are necessary to ensure accounting issues are handled properly and consistently.
- Missing documentation: The Town was unable to locate and provide supporting documentation for several disbursements we examined. Additionally, we observed that some of the records were in disarray and did not appear complete. This lack of documentation prevented us from being able to conclude whether certain expenditures were reasonable, such as the “Questionable” items identified in Finding 1. Also, as noted above, the Town was unable to locate policies and ordinances. The Utah Municipal General Records Retention Schedule requires the Town to retain records for a certain period of time. Failure to do so violates records retention rules, decreases transparency, and hampers the ability of Town Officials to perform their duties appropriately.

### **Recommendations:**

**We recommend that Town Officials:**

- **Require a complete list of expenditures for council review. Town Officials could evaluate completeness by verifying numerical sequence of checks as necessary.**
- **Review supporting documentation and invoices prior to approval and signing of checks.**
- **Implement independent reviews of the bank reconciliation and original bank statements, including appropriate follow-up on reconciling items, by someone other than the person who prepares the reconciliation.**

- **Comply with *Utah Code 10-5-129* by requiring and reviewing a quarterly and annual financial report.**
- **Develop and implement written fiscal policies and procedures.**
- **Comply with the Utah Municipal General Retention Schedules by ensuring the retention of supporting documentation for the appropriate length of time.**

**5. FAILURE TO POST ALL REQUIRED INFORMATION TO THE UTAH PUBLIC NOTICE WEBSITE**

The Town has not posted all information to the Utah Public Notice Website (Website) required by *Utah Code 52-4*, which mandates that notice, agendas, and minutes of all public meetings be made available to the public on the Website. In addition, some information posted was incomplete and other information items have been posted incorrectly to the Website, which is confusing to the user. The Website is administered by the Division of Archives and Records Service and its purpose is to bring greater accessibility to public notice information and increased participation by the public. Town Officials did not ensure compliance with the law and did not pursue adequate training for those tasked with posting to the Website.

**Recommendations:**

**We recommend that the Town post all required notices and information on the Utah Public Notice Website. We also recommend that Town personnel contact the Division of Archives and Records Service to obtain training and tools for those tasked with posting public notices to the Website to help ensure information is posted accurately and correctly.**

**6. LIKELY NONCOMPLIANCE WITH STATE PROCUREMENT CODE**

The Town used a bidding process to procure the installation of security cameras for the Town's spring. Reportedly, a relative of the Former Clerk is affiliated with the company that was awarded the contract. Our review of bidding documents indicated that this company had the lowest bid. However, according to the current and former mayors, the Former Clerk opened the bids alone without any witnesses present. Without at least one witness present at the time the bids were opened, we cannot verify that the bidding process was not manipulated to favor the Former Clerk's relative.

The Town does not have an approved procurement ordinance; as such, according to *Utah Code 63G-6a(103)(49)(a)*, the Town is subject to the State Procurement Code. The State Procurement Code requires that bids be opened publicly, in the presence of at least one witness, and at the time and place indicated in the invitation for bids (see *Utah Code 63G-6a-604(1)*). It appears Town Officials failed to ensure compliance with State Procurement Code, likely due to the Town's lack of written policies and procedures. The Town should ensure

transparency and fairness by establishing and complying with appropriate procurement practices.

**Recommendation:**

**We recommend that the Town establish by ordinance its own procurement process or ensure compliance with the State Procurement Code.**

The Office of the State Auditor provides resources for local governments. Below are links to topics that may be especially useful for Fayette Town.

Fraud Risk Assessment resources <https://auditor.utah.gov/resources/>

Separation of Duties Between Clerk and Treasurer Training Video <https://vimeo.com/198210632>

Bank Reconciliation - defined <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Brief-Explanation-Bank-Reconciliation.pdf>

Separation of Duties - defined <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Brief-Explanation-Separation-of-Duties.pdf>

Separation of Duties – Checklist <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Checklist-Separation-of-Duties.pdf>

Training links for elected officials <https://auditor.utah.gov/training/elected-officials-training/>

Training links for Financial and Administrative Professionals <https://auditor.utah.gov/training/online-training-2015/>

Adopting an Annual Budget (Cities and Towns) - Checklist <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Checklist-Adopting-an-Annual-Budget-Cities-and-Towns.pdf>

Amending a Budget (Cities and Towns) - Checklist <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Checklist-Amending-a-Budget-Cities-and-Towns.pdf>

Holding a Public Meeting - Checklist <https://auditor.utah.gov/wp-content/uploads/sites/6/2018/10/Checklist-Holding-a-Public-Meeting.pdf>

Templates <https://auditor.utah.gov/resources/>



## Fayette Town

90 South 100 East

HC 13 Box 300564

Fayette Utah 84630

Phone 435-528-5882

Email- [fayette5882@gmail.com](mailto:fayette5882@gmail.com)

January 21, 2019

Utah State Auditor John Dougall  
East Office Building, Suite E310  
Utah State Capitol Complex  
Salt Lake City, Utah 84114

Re: State Auditor Report No. FAYT-18-SP

This letter is Fayette Town's response to your office's Special Project Report. We as a town council wish to thank you for all the time and help you have devoted to assist us during this difficulty. We are working to get things in compliance and working toward transparency.

### **1. Former Clerk Misappropriated Town Funds**

We are in the process of sending a letter to the former town clerk informing her the shutoff of the water service will not be turned on until the \$1000 hook-up fee is paid.

We are investigating ways that will not break our contractual agreement with our water loans and grants that can return some funds to the citizens.

We have taken the first \$100,000 and put it in a municipal money market for the time being as we research options and try to get the records balanced since there are some negative balances in accounts.

It was voted in town council to skip the additional upheaval it would cause the citizens to go forward with a civil suit.

### **2. Failure to Separate Duties**

We have contracted with Miller & Company CPAs out of Richfield to assist us getting our books in order and to come out every other month to validate checks written and proper allocation within the Pelorus software accounting system. They have agreed to assist us with education on what reports to generate and review during town council.

We also recognize that numerous ordinances were out of date or not properly passed. We are going to make an attempt to write or redraft past procedures for fiscal matters. We plan on following up with a procedure manual after the new procedures are passed.

Our current employee has recognized and is willing to take the appropriate town clerk /treasurer documentation courses.

### **3. Town Officials Failed to Provide Adequate Oversight**

There is only one town council member from the prior administration whose term ends this year and he assisted with this correction of the town's malfeasance and we believe he will be of value till the end of his term.

The current town council is committed to getting the town's fiscal matters under control.

**4. Inadequate Internal Controls**

We have now transferred our checking account to Zions because it provides online viewing and monitoring of transactions.

We have restricted signing of checks to two council members.

We expect financial reports will be generated and reviewed in the future.

We plan on writing a fiscal policy & procedure manual after we have had a chance to write or redraft and pass new procedures.

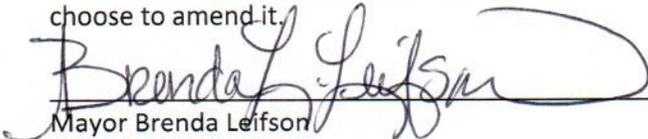
**5. Failure to Post all require information to the Utah Public Notice Website**

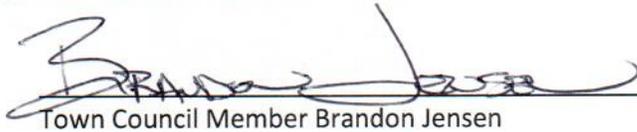
We have had difficulty with an additional previous problem. The former town clerk created multiple categories for the same thing. When this was brought up to the public website manager, we asked that items be combined so that we would have no more than two categories, so we could follow the historical flow of the meetings. We were told that we could not do it, that it had to be done by the technical people. We have posting listed through multiple categories. We ask that any assistance you can lend toward that reduction of categories would assist both our listing and citizen retrieval.

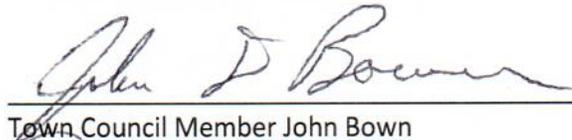
The posting on the Utah Public Notice website has been emphasized and our current employee is trained to do so.

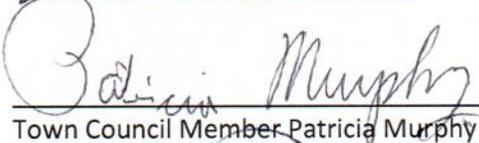
**6. Likely Noncompliance with State Procurement Code**

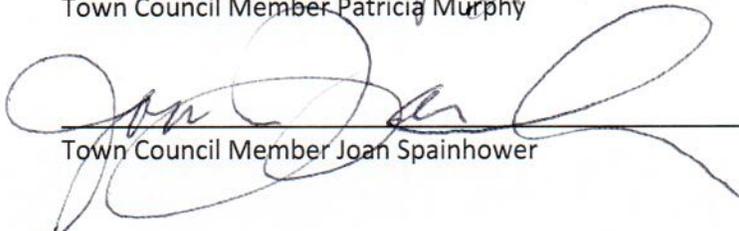
We plan on adopting the State Procurement Code for the time being and follow said procedures, until such time we choose to amend it.

  
\_\_\_\_\_  
Mayor Brenda Leifson

  
\_\_\_\_\_  
Town Council Member Brandon Jensen

  
\_\_\_\_\_  
Town Council Member John Bown

  
\_\_\_\_\_  
Town Council Member Patricia Murphy

  
\_\_\_\_\_  
Town Council Member Joan Spainhower



OFFICE OF THE  
**STATE AUDITOR**

Auditor's Concluding Remark:

We re-emphasize to the Town Council the importance of appointing two separate individuals (or contracted parties) to perform the following duties as required and defined by law<sup>1</sup>:

- One individual to act as clerk, and
- Another individual to act as treasurer.

We encourage the Council to work with their newly contracted CPA firm to assist with bringing the Town into compliance with state law.

<sup>1</sup> See *Utah Code* 10-3-916 and 10-3-301(7). Clerk and treasurer duties are enumerated in Utah Code sections 10-5-123, 10-5-125, and 10-5-127.