AUDIT DEPARTMENT

Audit Report

Goodsprings Township Constable Revenue and Expenditures

November 2013

Angela M. Darragh, CPA, CISA, CFE
Audit Director

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Angela M. Darragh, CPA, CFE, CISA, Director

November 6, 2013

Mr. Don Burnette
Clark County Manager
500 South Grand Central Parkway, 6th Floor
Las Vegas, Nevada 89103

Dear Mr. Burnette:

At the request of the County Manager's Office, we have completed the Goodsprings Township Constable Revenue and Expenditures Audit. The audit reviewed procedures for the period January 1, 2011, through June 30, 2013. The last day of fieldwork was September 9, 2013.

The objectives of the audit are to determine whether controls in place are adequate to safeguard assets from abuse, errors, and loss and whether revenue transactions and agency funds are properly supported, recorded, and deposited in a timely manner in accordance with governing laws and regulations.

To accomplish our objectives, applicable Nevada Revised Statutes (NRS) were reviewed and interviews were conducted with the Constable to gain an understanding of the business process. We requested supporting documentation for transactions performed by the Constable and recalculated fees to verify they were in accordance with NRS. We met with the Constable's banker to request copies of bank statements and canceled checks. We requested the Constable's fee book and any quarterly financial statements submitted to the County Clerk's office. Finally, we attempted to obtain court orders from District Court related to property liens performed by the Constable during the audit period.

During 2011 and 2012, the Constable did not have an accounting system in place to provide assurance that revenue transactions and agency funds were properly recorded and documented. For 2013, the Constable began to record transactions in a fee book. However, individual transactions did not have supporting documentation. Without an accounting system, controls are not adequate to safeguard assets. Additionally, we cannot determine the completeness and accuracy of transactions since the Constable has not maintained sufficient records to support daily transactions. The Constable has a fiduciary responsibility to ensure funds collected are recorded and documented.

Sincerely,

Angela M Darragh

Angela M. Darragh, CPA
Audit Director

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BACKGROUND

As of January 1, 2011, Gary P. Rogers began his four year term as the Goodsprings Township Constable, which comprises the communities of Sloan, Goodsprings, Jean, Primm, and Sandy Valley. The Constable is empowered with the authority of a peace officer by state law and serves a role in the legal process by executing the orders of the court in civil and criminal matters, for small claims, and for evictions. These orders include small claims, writs, summons, evictions, garnishments and notices. The Goodsprings Constable retains the fees charged to process these documents and may only charge the fees allowed by Nevada Revised Statute (NRS) 258.125. The office works on a fee plus mileage basis. Currently, the Constable has no deputies or office staff working on his behalf.

During the 77th session of the Nevada Legislature, Assembly Bill 223 was introduced and passed. Section 8 of this bill amends NRS Chapter 258 to include the following language: "In addition to any fine imposed pursuant to NRS 258.200, a board of county commissioners may establish by resolution or ordinance, penalties for the failure of the constable of a township in the county to file any report, oath, or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission."

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit are to determine the following:

1. Whether controls in place are adequate to safeguard assets from abuse, errors, and loss.
2. Whether revenue transactions and agency funds are properly supported, recorded, and deposited in a timely manner in accordance with governing laws and regulations.

To accomplish our objectives, we conducted a preliminary survey that included reviewing applicable (NRS) and interviewing the Constable to gain an understanding of the business process. We reviewed County policy related to record retention. Additionally, we requested supporting documentation for transactions done by the Constable and tried to recalculate fees to verify they were in accordance with NRS. We met with the Constable's banker to request copies of bank statements and canceled checks. We also requested the Constable's fee book and obtained the quarterly financial statements submitted to the County Clerk's Office. Finally, we attempted to obtain court orders from District Court related to property liens performed by the

Constable during the audit period.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our procedures considered the period of January 1, 2011, to June 30, 2013, and the last day of fieldwork was September 9, 2013.

RESULTS IN BRIEF

During 2011 and 2012, the Constable did not have an accounting system in place to provide assurance that revenue transactions and agency funds were properly recorded and documented. For 2013, the Constable began to record transactions in a fee book. However, individual transactions did not have supporting documentation. Without an accounting system, controls are not adequate to safeguard assets. Additionally, we cannot determine the completeness and accuracy of transactions since the Constable has not maintained sufficient records to support daily transactions. The Constable has a fiduciary responsibility to ensure funds collected are recorded and documented. We also noted that the Constable is not compliant with specific sections of the NRS.

DETAILED RESULTS

Record Retention Policy Not Followed

The County has established a record retention policy through Administrative Guideline Number 14. The policy was established to provide guidance to departments as it relates to record retention as outlined in NRS Chapter 239. This policy applies to all Clark County elected and appointed officials, employees, contractors and other individuals authorized to create, access, use, store, or dispose of County records.

The following documentation or clarification was requested but not available:

- Supporting documentation for 17 of 35 checks (49%) written from the garnishment account.
- January 2011 to October 2011 bank statements.

- Supporting documentation for deposit amounts of $85,392 to the garnishment account and $14,162 to the operational account.
- Explanation for online transfers made to/from both accounts.

Furthermore, the Constable does not have adequate back-up procedures in place to ensure electronic records are properly maintained and available for inspection in accordance with NRS.

Recommendation

1. Obtain a copy of Administrative Guideline Number 14 and review to understand the types of documentation that needs to be maintained to support the fees collected and money paid in the course of conducting the business of the Constable Office.

2. Back-up electronic records to disk or flash drive at least weekly so that in the event of hard drive failure, the information can be retrieved. Additionally, the back-up files should be tested monthly to ensure files and documents can be retrieved.

3. Keep hard copies of check support, bank statements, deposit records, and transfer explanations in accordance with record retention schedules.

Property Lien Transactions Not Supported

NRS 21.075 requires that to collect against a judgment debtor, the sheriff will serve the judgment debtor with a notice of the writ of execution and a copy of the writ. NRS 21.111 further states a constable may perform any of the duties assigned to a sheriff pursuant to NRS Chapter 21 with respect to a writ of execution or garnishment. The Clark County Record Retention Schedule requires Constables to keep court dockets which will document individual court cases and associated court actions and similar documents such as judgments, evictions, garnishments, wage information, subpoenas, cash drawers, and property liens.

The Constable acted as a keeper on two property liens. We were able to obtain a copy of the judgment from District Court on one of two property liens performed by the Constable. The Constable could only

provide a copy of the writ of execution for one of the property liens. Without the writ, the order of the Court is unknown. Furthermore, a worksheet provided by the Constable reflected that the cost for deputies was billed at $36 per hour, but they were only paid $20 per hour by the Constable. NRS 258.125 (2) (a) states that for receiving and taking care of property on execution, the Constable may only charge actual necessary expenses as allowed by the court which issued the writ. It cannot be determined what expenses are allowed without reviewing the court order and therefore we could not determine if the billing for the deputies was correct.

Recommendation

1. For any future property liens transactions, the Constable should obtain and keep a copy of the writ of execution.

2. Obtain a District Attorney opinion to determine what costs are appropriate for property lien transactions.

Fee Book Not Maintained

NRS 258.180 states: "Every constable shall keep in his or her office a fee book in which the constable shall enter in detail the title of the matter, proceeding or action, and the fees charged therein. The fee book shall be open to public inspection."

We found that the fee book for 2011 and 2012 was not available for inspection. The Constable stated he had two hard drives that crashed, so it is unknown if the fee book was lost to hard drive failure or if the fee book was never maintained. Without the fee book, the amounts collected for services provided by the Constable cannot be verified to ensure that service fees were in accordance with the fee schedule as outlined in NRS 258.125. It does appear that the fees charged for the period January 2013 to June 2013 did agree with the fee schedule as specified by the NRS.

Recommendation

1. Recreate the fee book for 2011 and 2012.

2. Back-up electronic records to disk or flash drive at least weekly so that in the event of hard drive failure, the information can be retrieved and test on a regular basis to verify data integrity.

3. Keep fee book in accordance with Administrative Guideline Number 14.

Statutory Requirements Not Met

NRS 258.190 states: "On the first Monday of January, April, July, and October, the constable who receives fees shall make out and file with the board of county commissioners a full and correct statement of all fees or compensation received in their official capacities during the preceding three months." Additionally, NRS 258.020 requires that an oath of office is taken and NAC 289.350 requires a personnel action report is submitted with the Peace Officers' Standards and Training (POST) upon employment or termination of a peace officer.

As of July 18, 2013, quarterly financial statements were not filed with the County Clerk's Office for the 3rd and 4th quarters of 2011 and 2012. Additionally, the 1st and 2nd quarter 2013 reports did not include copy fees received by the Constable. We could not locate a filed oath of office for the Constable. The Constable stated that the oath was filed; however, the County Clerk has no record of the oath. Also, POST has no record of a personnel action report being submitted for deputies that work in the Constable's office.

Recommendation

1. Re-create the records necessary to compile the activity for the missing quarters and submit the reports to the County Clerk's Office.

2. Maintain a fee book to record all fees or compensation received by the Constable. The amounts per the fee book can be used to complete the quarterly reports.

3. Verify that the totals per the fee book for the quarterly report agree to the reported totals in the financial statements.

4. Submit a notarized Oath of Office to the County Clerk's Office.

5. Complete the personnel action form and submit to POST for any peace officers used in the Constable's Office.

Limited Ability of Clark County to Enforce Requirements

Clark County currently has limited ability to discipline a Constable who is not meeting requirements, such as the Goodsprings Constable. Therefore, there is little the County can do to force the Constable to comply with these requirements. Assembly Bill 223 passed during the 2013 legislative session and was effective July 1, 2013. This bill amended NRS 258 to allow Clark County to pass an ordinance that would allow fines for noncompliance, but none have been enacted at this time.

Recommendation

1. Develop a County ordinance that allows the County to take action against Constables who do not comply with requirements.

Constable
GARY P ROGERS

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Clark County
NEVADA

Managerial Response

1) In the brief results it was said that the Goodsprings constable's office did not keep records or a fee book during 2011 and 2012. This statement is incorrect and has been explained to the audit department on several occasions. All records were kept on two external hard drives made by Iomega. One was for an Apple computer used by the Constable and the other was for a PC used by the accounting staff. Both hard drives had identical records as a back up. Both of these hard drives were locked in a safe when not in use and no records were stored on either computer since they were personal lap tops, for security reasons. I did not want a chance of these laps tops being lost or stolen since I believe the records should be protected.
2) During the month of October 2012 both of these hard drives were corrupted. This coincidentally was the same time my operations Sergeant was terminated for suspected embezzlement and other similar actions. All of the information on one hard drive was irretrievable. I ran several retrieval operations on the other hard drive and was able to retrieve many files that were all turned over to the audit department.
3) During the second and third quarter of 2012 our business had grown substantially and I was promised a part time clerk during a Quarterly Constable Meeting, in Henderson, by Jeff Wells, the assistant County manager. Because the work was more than I could handle without help I set the files aside with the expectations that our future clerk would be able to log them when they started work. Near the end of the third quarter, Mr. Wells informed me, that he had changed his mind and we wouldn't be getting a county clerk. I realize that it is my responsibility and should have found a way to record these records. As it turns out these records would have been lost anyway with the crash of the two hard drives.
4) Because my office could not handle the volume it was doing without help from the county I began shutting down the volume that I built letting it go back to private process servers. I now only handle the volume of business that I can run from my home since the Goodsprings Constables Office is given $0.00 operating budget from the County.

5) The Goodsprings Constables office Maintains all court documents and has always tried to maintain all records. I still keep every thing on two external hard drives of two different manufactures and one as working copy and one as a back up and I am now the only one who has access to them. I really don't know why the first two hard drives crashed. I don't know if the were faulty or they were tampered with but I am taking every precaution I can think of and am very receptive to suggestions as to some sort of better system. I did try Carbonite and on line backup system but since I can no longer afford the Internet, this is no longer an option. I believe that we took every precaution to secure electronic records that any reasonable person of business would have taken and were hit by circumstance beyond our control.
6) All Bank Statements were made available to the auditing department. I brought in Copies of all bank statements and full access to all of my bank accounts, both online and personally through our personal banker, was made available to the auditor. All bank statement can be retrieved from the bank on the online access granted or copies can be ordered by the auditor. The bank has always promised that all copies of checks and deposits are available and they again stated that to myself and Paul McPhee from the audit department. As it urns out they were not able to produce all copies requested. On hearing this, my personal banker, assigned to help on this audit said he could request copies. Apparently Chase bank was unable to find the copies requested. Since finding out that the bank can't really produce copies as they have always promised I now keep copies of all checks received.
7) I am instituting all suggestions in this report that we were not already doing.
8) The missing writ of execution will be found. It must be misfiled. This office has never disposed of any records. Although this office is not capable of accessing records on court view, this requested writ is most certainly filed and available on court view.
9) On the issue of charging $36.00 per hour for civil stand by: nowhere can anyone find any mention of charges any law enforcement agency can charge for this. All agencies have to charge for civil standby for service provided beyond the normal scope of work at the client's request. My deputies were paid $20.00 per hour. One hour od supervision is supplied for every four-man hours. The sergeant is paid much more than $20.00 depending on which sergeant. The constable is on scene on all Writs of execution and civil standby, and constables are paid $50.00 per hour as set by the County Board of Commissioners. The department has office rent, automobiles, Internet connection, telephones, liability insurance, insurance covering an injured deputy in the line of duty, gasoline to get deputies on site, office equipment, etc. Remember this office has $0.00 operating budget from the county and has to buy all of these things ourselves. In my department all Deputies and reserve officers are bought one meal for every four ours on the job. We all eat these together, when possible, to promote unity in the department. Through past experience I believe $36.00 per hour just covers expenses and not all of

them. I also believe if I wanted to, I have the right to charge a profit, which I don't do, again civil standby is not covered by the NRS. The fee charged for a writ of execution covers one officer and mileage for one officer. Civil standby covers any other things a client would like to happen under the NRS.

10) The final two comments have to do with the oath of offices and two future reserve deputies. At the present time the Goodsprings Constables office is not a P.O.S.T agency. I have two future reserve P.O.S.T certified officers. They have both sworn the Oath of Office done by the County Clerks office yet their Oaths are not apparently on file with that office. Neither of these two future officers have been given any police work or Law Enforcement powers until my office is reinstated and at that time their PAR reports will be filed with P.O.S.T. Judge Susan Baucum preformed my Oath of Office on January 3rd 2011 with many prominent Citizens present as witnesses, Assemblyman and Mrs. John Hambrick. Chief Deputy District Attorney Bernie Zadrowski just to name two. The Oath of Office was faxed to the County Clerks office and now I'm being told I have to get another one. I will produce another Oath of Office but this seems to be an ongoing problem with the County Clerks Office. I have sent in numerous Oaths by my deputies over the years and yet I constantly being told there are no Oaths on file for my deputies.

Above photo of Constable Gary P. Rogers taking Oath of Office and being sworn into office by the honorable Susan Baucum, January 3, 2011.

Constable Gary P. Rogers November 1, 2013

Gary P Rogers