



# Town of Pendleton

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## Capital Projects

2024M-72 | September 2024

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# Report Highlights

## Town of Pendleton

### Audit Objective

Determine whether Town of Pendleton (Town) capital projects (projects) were properly planned, accounted for and monitored.

### Key Findings

The Town Board (Board) and Town Supervisor (Supervisor) did not ensure projects were properly planned or accounted for and did not monitor projects. As a result, the Supervisor and Board were unaware of total project costs, and the Board could not effectively monitor the status of the projects or communicate the projects' status to taxpayers. Specifically, the Supervisor and Board did not:

- Establish project scope, timelines, cost or funding sources for any of the Town's five projects.
- Prepare detailed project budgets for each project.
- Transparently communicate or present project information to taxpayers.

The Supervisor did not:

- Account for the projects in separate capital projects funds.

### Recommendations

The audit report includes 11 recommendations to improve capital project planning, accounting and monitoring.

Town officials agreed with our recommendations and indicated they will take corrective action. Appendix C includes our comment on an issue that was raised in the Town's response letter.

### Audit Period

January 1, 2021 – December 21, 2023. We extended our review back to 2014 for certain records related to project discussions and meetings.

### Background

The Town is located in Niagara County and governed by the elected five-member Board, which includes the Supervisor and four Board members. The Board is responsible for general oversight of Town operations and finances, including the oversight and management of capital projects.

The Supervisor serves as the Town's chief financial officer and is responsible for the Town's financial activities, including maintaining capital project accounting records and providing monthly financial reports to the Board. The Supervisor appointed a Budget Officer, who is responsible for helping establish Town budgets.

| Quick Facts                                      |               |
|--|---------------|
| Number of Capital Projects                       | 5             |
| Approximate Project Costs as of November 2, 2023 | \$1.4 million |
| Financed Project Cost/Debt Issued                | \$1.7 million |

# Capital Projects

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## **What Is a Properly Planned, Accounted For and Monitored Capital Project?**

A properly planned project requires a thorough understanding of the project's overall scope, cost and timeline. Initial estimated costs must be realistic so that town officials can evaluate methods and costs of financing. When planning for the project and determining funding sources, town officials should determine whether debt will need to be issued, capital reserves will be used to fund the project and whether municipal employees and/or equipment will be used (in-kind services) during the project. An established project timeline allows officials to plan project finances and provides a town board (board) with a guideline for when expenditures will be incurred.

Once all aspects of the project are identified, a board should formally adopt itemized capital project budgets that span the life of the project and include anticipated funding sources and estimated expenditures for each capital project. A board should formally establish project budgets and document them in board meeting minutes to inform taxpayers. This important step of project planning provides necessary transparency and informs taxpayers about a project's planned costs and financing. Also, proper transparency allows taxpayers to evaluate the financial stewardship of their elected representatives and provides taxpayers with a basis for informed participation in project discussions, where applicable.

In addition, a board should establish written policies and procedures to provide clear and specific guidance regarding proper planning of projects and to identify who is responsible for each task associated with project planning. Furthermore, a board also should monitor compliance with these expectations and requirements.

A town supervisor (supervisor) is responsible for properly recording project budgets and accounting for all financial activities. If the acquisition or construction of a capital asset extends beyond one year, it should be accounted for in a separate capital projects fund. Each project requires its own set of accounting records to document the project's complete financial history, which may span several fiscal years. According to New York State Town Law Section 123, a board is required to annually audit, or cause to be audited, the supervisor's records and documentation, including project records.

A board is responsible for establishing proper budgetary controls and monitoring project budgets. Once a project budget has been established and the project has begun, project activity should be monitored on a regular basis. At a minimum, a board should review expenditures in relation to the project budget, amend the project budget when necessary to prevent cost overruns, review availability and timeliness of funding sources identified in the budget, and review the project's status compared to the initial project timelines.

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A supervisor should provide sufficient and appropriate reports to the board, including revenue and expenditure activity in comparison to the project budget, percentage of project completion, and significant changes to project scope or cost. Proper project monitoring reduces the risk of having project costs exceed project funding sources, which could negatively affect a town's fund balance or potential future sources of funding, such as grants.

### **The Supervisor and Board Did Not Ensure Capital Projects Were Properly Planned**

The Town had five active projects<sup>1</sup> during our audit period. The Board and Supervisor did not:

- Clearly establish the total scope of work to be completed for each of the projects.
- Develop project timelines establishing when the projects would begin, when the Town would incur project costs and approximately when the projects would be completed.
- Estimate the projects' total costs or determine how projects would be funded.

Because the Board did not determine these fundamental project planning components, it also did not develop or approve budgets for each of the five projects or include this information in its meeting minutes. As a result, taxpayers were not properly informed of key project details, such as total anticipated project expenditures, or how the projects would be funded or financed. Furthermore, the Board cannot effectively monitor the status of the projects due to these project planning deficiencies.

The Board also did not communicate transparently with the taxpayers regarding project status or changes to projects, including cost. For example, the Board initially discussed the community center project with taxpayers in 2014 during a community center presentation. At the presentation, the Board stated that total estimated project costs were approximately \$1.9 million and that it "should not affect taxes."

However, as of November 2023, the estimated cost to complete the project increased to \$2.6 million, and the Board determined that the Town would need to issue serial bonds in an amount not to exceed \$1.7 million to fund the project. This could directly affect taxpayers because the Town may have to levy taxes to cover the cost of the bond payments.

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<sup>1</sup> Refer to Appendix A for additional information on the projects.

The Board did not communicate the increased cost, reason for the increase, or status of the project to taxpayers until the Town began the process of issuing the bonds in May 2023. Since starting the project in approximately July 2023, project changes have included adding foundation work, such as insulation and stone; constructing a kitchen and purchasing appliances; and adding a staircase to provide access to the building's mezzanine level. If the Town had properly planned the project, some of these changes could have been identified earlier in the process and included in the original estimated cost.

Rather than developing individual budgets that itemize project costs, funding sources and the anticipated timing of each over the life of the projects, the Supervisor directed the Budget Officer to include estimated project costs each year in the general fund operating budget. The Budget Officer established one or two budget codes for each project in the general fund budget to account for project costs.

When we asked the Supervisor what he based the budgeted project amounts on each year, he explained that he used amounts provided in grant documents related to the projects and/or cost estimates received from vendors for the portions of the projects they anticipated on completing that year. This practice resulted in officials including \$3 million more for project costs in the general fund budget than was expended for the project between 2021 and 2023. Including unnecessary appropriations in the budget is a misallocation of financial resources and is not a transparent presentation of the Town's spending plan.

There were no policies and procedures in place to establish expectations and responsibilities regarding capital project planning. Also, the Supervisor told us that he did not believe the projects were significant or complex enough to create separate budgets. However, because each project exceeded a single fiscal year, creating separate itemized project budgets would have provided critical information necessary for monitoring project costs and comparing them to approved budgeted amounts, to ensure costs remained within approved amounts.

One Board member, who was on the Board when original project discussions took place, told us that the Supervisor did not provide the Board with sufficient information pertaining to the projects and that when Board members asked questions about the projects, they were dismissed. We offered OSC's publication, *Local Government Management Guide – Capital Projects Fund* (Figure 1), to the Supervisor for information on proper capital

**FIGURE 1**

**OSC Publication**



*Local Government Management Guide – Capital Projects Fund*

Access this publication at:  
<https://www.osc.ny.gov/files/local-government/publications/pdf/capital-projects-fund.pdf>

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project accounting, but the Supervisor said that he knew where to locate it on the OSC website. We encourage the Supervisor to review the publication so that he may understand and effectively address the inadequacies discussed in this report.

### **The Supervisor Did Not Properly Account For and the Board Did Not Monitor Capital Projects**

The Supervisor did not record individual project activity in separate capital projects funds and did not provide detailed project data or reports to the Board to properly monitor the projects. The Supervisor recorded project financial activity in the general fund instead of creating separate capital projects funds for each project. By doing so, the Supervisor could not identify total individual project costs that were incurred each year and over the life of each of the projects.

Had the Supervisor properly accounted for the projects in separate capital projects funds, all project costs incurred over the life of a project would be readily available, because capital projects fund records are not closed out or “reset” each year, as are operating funds, such as the general fund. Because the Supervisor did not properly account for the projects, he could not provide accurate, up-to-date financial records to the Board, and project financial activity was not transparent to taxpayers.

Also, the Supervisor often did not record or pay expenditures from the same general fund account codes as the approved appropriation, which in some cases resulted in overspent budget lines. Although the Supervisor was responsible for verifying that the accounting records were properly updated, the Supervisor had never logged into the Town’s financial system and, instead, relied on his secretary to record all project entries.

Due to the improper manner in which the Supervisor accounted for projects, he could not provide us with total actual costs per project. The Supervisor did provide us with grant documents indicating total original estimated project costs of \$2 million for all five projects. However, we determined that actual project costs will be approximately \$1.6 million more than estimated, an 81 percent increase.<sup>2</sup> This cost will likely continue to increase because officials have not yet approved or paid contracts for portions of Project 4,<sup>3</sup> including paving at Town facilities.

The Supervisor told us he thought that he was accounting for projects in an acceptable manner, because the certified public accountant (CPA), who was contracted to compile the Town’s Annual Financial Report (AFR), did not tell

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<sup>2</sup> We based our calculations on paid project expenditures; outstanding contract amounts authorized by the Board, but not yet paid; and estimated costs for in-kind services.

<sup>3</sup> See supra, note 1.

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him that the accounting was incorrect. However, during the Town's 2022 AFR compilation and filing engagement with the CPA, the CPA provided the Supervisor with a list of adjusting journal entries to record to ensure that the Town's accounting records agreed with the compiled AFR. These entries included the reclassification of some project expenditures from the general fund to the capital projects fund. But the Supervisor did not record any of the adjusting entries that related to the projects.

In addition, although it is documented in the November 2021 Board meeting minutes that a Town resident specifically requested that the Board start "listing individual grants under 'capital projects' in the future to make it easier to track," the Board did not take any action to ensure this occurred. We attempted to contact the only current Board member who was on the Board when the request occurred to determine why no action was taken, but the Board member did not respond.

Furthermore, the Board did not conduct, or hire someone to conduct, an annual audit of the Supervisor's records. Had this occurred, the Supervisor's improper accounting for projects, and resulting overspent budget lines, may have been identified and corrected.

We asked the Supervisor and another Board member why the annual audits were not completed, even though Board meeting minutes indicate that the Board assigned the responsibility for auditing the Supervisor's records each year to a Board member. The Supervisor told us that the Board did not audit his records because the CPA told him in an email that the work that the CPA was conducting for the Town (AFR compilation and filing) fulfilled the annual audit requirement. The Board member said that the Supervisor told him that the CPA was performing the annual audit.

However, we reviewed a copy of the Town's 2022 engagement letter with the CPA that described the services the CPA firm was to provide the Town, and there was no mention of an audit or audit services being provided to the Town. Town officials could not provide us with any documentation or evidence demonstrating that the CPA was contracted to, or performed, an audit of the Supervisor's records.

Three of the five Board members were in their first term during our audit period. They told us that they were still in the process of learning their duties and responsibilities and were unaware of their monitoring responsibilities pertaining to capital projects. We provided four Board members with OSC's publication regarding capital projects.<sup>4</sup>

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<sup>4</sup> Refer to Figure 1 for further information. When we previously offered this publication to the Supervisor, he declined and said that he knew where to locate it on the OSC website.



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Without proper accounting for and monitoring projects, the Board and Supervisor cannot make educated financial decisions regarding the projects and provide transparency to taxpayers regarding total project costs and information on whether these costs will affect the tax levy.

### **What Do We Recommend?**

The Board and Supervisor should:

1. Properly plan capital projects by preparing and approving a detailed budget.
2. Improve their understanding of planning, overseeing and managing capital projects by reviewing OSC's publication regarding capital projects.

The Board should:

3. Review and approve all capital project spending increases, scope modifications and timeline adjustments and document approved changes in its meeting minutes.
4. Establish written policies and procedures that provide clear and specific guidance regarding capital project planning. Also, the Board should monitor compliance with the policies and procedures.
5. Require the Supervisor to provide up-to-date, monthly budget-to-actual reports for each project and then review the reports.
6. Monitor project expenditures to ensure that the Town does not exceed project budgets and that the Supervisor is using appropriate account codes.
7. Conduct an annual audit of, or hire a CPA to annually audit, the Supervisor's records.

The Supervisor should:

8. Record capital project budgets in the accounting records; establish a separate capital projects fund for each project; maintain accurate, separate accounting records to account for each project's financial activity; and charge project expenditures to the correct appropriation account.
9. Provide the Board with accurate, monthly, up-to-date financial reports for each project that compare project-related budget-to-actual revenues and expenditures.

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10. Monitor appropriation accounts and avoid overdrawing any account.

11. Record adjusting journal entries recommended by the CPA.

# Appendix A: Project Descriptions

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Because the Board and Supervisor did not properly plan and account for the projects, we could not determine all details of each project. Following are descriptions, scope and timeline information that we were able to identify regarding the projects and significant capital asset acquisitions.

## **Project 1: Community Center Project**

In 2014, the Board held meetings with taxpayers to discuss the need for a community center and receive taxpayer input. The original estimated cost presented to taxpayers was approximately \$1.9 million, and officials told them that constructing the project should not affect the tax levy.

In May 2021, the Town received grant funds totaling \$200,000 to assist with the cost of the project, including initial architectural services. In June 2021, the Town applied for additional grant funds totaling \$500,000 to assist with the cost of this project and two other projects, which included installing a splash pad and Americans with Disabilities Act (ADA)-compliant restrooms. The Town advertised for bids in January 2023, approved bond financing in May 2023 and awarded contracts from the bids received for the project in June 2023.

## **Project 2: All-Inclusive, ADA-Accessible, Splash Pad Project**

In some Town documentation and grant documents, officials combined this project and its associated expenditures with Project 1. Town officials originally anticipated completing this project in July 2023, but extended the project's estimated completion date to the spring/summer of 2024.

## **Project 3: Construction of a Salt Shed and Installation of a Backup Generator Project**

The Town constructed a salt shed to store road salt and purchased a backup generator for the highway garage. The Town requested grant funds totaling \$250,000 to help pay for this project.

## **Project 4: Parking Lot Paving Project and Skid Steer Purchase**

The Town purchased a wheeled skid steer for \$95,988 and planned to complete approximately 100,000 feet of paving, which included the Town hall parking lot and highway garage parking lot. The Town requested grant funds totaling \$250,000 to assist with this project's estimated costs totaling \$302,628, as listed in the grant documents.

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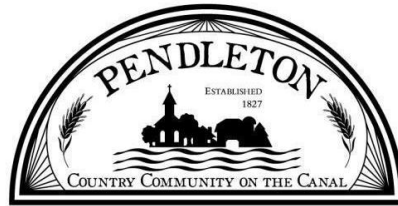
### **Project 5: ADA-Compliant Restroom, Town Park Paving Project and Equipment Purchases**

The Town started work on installing and constructing ADA-compliant restrooms and paving parking lots and roads at the Town park. Also, the Town purchased a piece of equipment for the Town park. The construction, paving and equipment purchase had an estimated cost of \$116,902, as listed in the grant documents. In 2018, the Town requested grant funds totaling \$91,902 to assist with the cost of constructing the ADA-compliant restroom. In some Town records and grant documents, officials combined this project and its associated expenditures with Project 1.

# Appendix B: Response From Town Officials

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**TOWN OF PENDLETON**  
6570 Campbell Boulevard  
Lockport, NY 14094



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September 5, 2024

New York State Office of the State Comptroller  
Buffalo Regional Office  
295 Main Street, Suite 1032  
Buffalo, New York 14203-2510

RE: Response to Audit

The Town of Pendleton (the “Town”) is in receipt of the State Comptroller’s Office draft Report of Examination titled ‘Capital Projects’ for the period covered January 1, 2021 through December 21, 2023. The Town was pleased that the State Comptroller’s audit did not identify any instances of fraud, wrongdoing, misappropriation of funds, or instances of misuse or waste. The Town thanks the staff of the Office of the New York State Comptroller for their time, efforts, and diligence to assist local governments in fiscal oversight and transparency in the collection and expenditure of public funds. The process of local auditing is a meaningful learning experience, providing governmental leaders the opportunity to reflect on policy and procedures while receiving meaningful feedback that informs changes and updates to governmental operations. The Town of Pendleton continuously works to ensure all areas of fiscal control and accountability meet all standards and has worked throughout the audit process to identify meaningful changes that can be implemented.

See  
Note 1  
Page 13

The audit report highlights multiple capital projects that have been undertaken by the Town of Pendleton to improve the services provided to residents, including funding for core services as well as recreational opportunities for all. Through the process of planning and implementing each capital project, the Town Board works with legal, engineering, financial, and management professionals to ensure proper expenditure of funds as well as ensuring the final product of each project meets the needs and requirements of the Town. The projects identified were funded through the collection of local taxes, as well as through funding secured through various local, state, and federal grants. Local funding is deliberated annually during the Town’s budget process and all grant funds are awarded upon completion of exhaustive review of the granting agency.

The audit details multiple improvements the Town needs to implement, and the majority of feedback was addressed during the audit process with careful changes already carried out by the Town. Moving forward, the Town is committed to addressing any outstanding improvements that are articulated in the audit, and work is currently underway to do so. Many of the detailed improvements are related to transparency of planning and monitoring of capital projects; the Town Board worked to ensure the public was well-informed during all stages of progress in each

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capital project. However, we can do better and the Town Board is committed to making any changes necessary.

Conclusion

The Town of Pendleton is ultimately pleased with the results of the State Comptroller's audit. Our Town was reviewed with no findings regarding any instances of instances of fraud, wrongdoing, misappropriation of funds, or instances of misuse or waste. We consider the audit and draft report findings to be a source for opportunities to further improve the dealings and operations within the Town.

|                          |
|--------------------------|
| See<br>Note 1<br>Page 13 |
|--------------------------|

The Town Board thanks the Office of the New York State Comptroller for its time and dedication and we look forward to continuing to work with the Comptroller's staff in the future. As required, the Town will prepare and submit a corrective action plan within the ninety day statutory requirement.

Very truly yours,

Joel Maerten

## Appendix C: OSC Comment on the Town's Response

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### Note 1

The audit objective focused on determining whether capital projects were properly planned, accounted for and monitored. The audit team assessed the risk of fraud occurring that is significant within the context of this audit objective, as required by generally accepted government auditing standards. Therefore, these audit results cannot be used to conclude there is no fraud, theft or professional misconduct in the Town's operations.

## Appendix D: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We spoke with Board members, the Supervisor, Supervisor's secretary, Budget Officer, Town Clerk and the Town's Highway Superintendent to gain an understanding of current projects and how officials were accounting for them. We also determined whether the Town had any policies and procedures in place for planning, approving and monitoring capital projects.
- We reviewed Board meeting minutes to determine whether the Board adopted resolutions to establish and identify projects. If the minutes included these resolutions, we determined whether the resolutions included the projects' scope, timeline, financing sources and an approved, detailed budget.
- We reviewed annual Town budgets, AFRs, grant documents and disbursements to determine approximate project costs.
- We reviewed employee timecards for the splash pad and salt shed/generator project and time sheets maintained for the community center project to determine whether there were any in-kind services provided for the projects.
- We reviewed check registers and spoke with officials to determine the approximate current expenditures for five active projects. As of November 2, 2023, the total expenditures for all projects were approximately \$1.4 million.
- We compared total project expenditures to estimated costs as indicated in grant documents to determine whether expenditures were within estimated costs. We used grant document information because the Board did not establish project budgets.
- We compared annual Town budgets and expenditure reports for the period January 1, 2021 through November 2, 2023 to determine whether each project's costs were over or under the amounts that officials budgeted for each year.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



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The Board has the responsibility to initiate corrective action. We encourage the Board to prepare a written corrective action plan (CAP) that addresses the recommendations in this report and forward it to our office within 90 days. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Town Clerk's office.

## Appendix E: Resources and Services

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### **Regional Office Directory**

[www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf](http://www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf)

**Cost-Saving Ideas** – Resources, advice and assistance on cost-saving ideas

[www.osc.ny.gov/local-government/publications](http://www.osc.ny.gov/local-government/publications)

**Fiscal Stress Monitoring** – Resources for local government officials experiencing fiscal problems

[www.osc.ny.gov/local-government/fiscal-monitoring](http://www.osc.ny.gov/local-government/fiscal-monitoring)

**Local Government Management Guides** – Series of publications that include technical information and suggested practices for local government management

[www.osc.ny.gov/local-government/publications](http://www.osc.ny.gov/local-government/publications)

**Planning and Budgeting Guides** – Resources for developing multiyear financial, capital, strategic and other plans

[www.osc.ny.gov/local-government/resources/planning-resources](http://www.osc.ny.gov/local-government/resources/planning-resources)

**Protecting Sensitive Data and Other Local Government Assets** – A non-technical cybersecurity guide for local government leaders

[www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf](http://www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf)

**Required Reporting** – Information and resources for reports and forms that are filed with the Office of the State Comptroller

[www.osc.ny.gov/local-government/required-reporting](http://www.osc.ny.gov/local-government/required-reporting)

**Research Reports/Publications** – Reports on major policy issues facing local governments and State policy-makers

[www.osc.ny.gov/local-government/publications](http://www.osc.ny.gov/local-government/publications)

**Training** – Resources for local government officials on in-person and online training opportunities on a wide range of topics

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## Contact

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