

Village of Hobart

Board Oversight

AUGUST 2018



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Village of Hobart

Audit Objective

Determine whether the Board provided adequate fiscal oversight.

Key Findings

- The Board did not adequately segregate the Clerk-Treasurer's duties or implement compensating controls. It also did not conduct an audit of the Clerk-Treasurer's records and annual financial report.
- Village officials expended \$76,200 in real property taxes over the last 12 years for two unused properties that did not benefit taxpayers.
- A Trustee, as co-owner of a local hardware store, had a prohibited conflict of interest.¹ She received a direct or indirect monetary benefit as a result of 59 contracts totaling \$2,398 between the store and the Village during our audit period.

Key Recommendations

- Properly segregate the Clerk-Treasurer's duties or implement compensating controls and annually audit the annual financial report and supporting records.
- Explore selling the unused properties or consider placing these properties in use to benefit taxpayers.
- Adopt procedures to help detect and prevent prohibited interests in contracts.

District officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action.

Background

The Village of Hobart (Village) is located in the Town of Stamford in Delaware County. The Village is governed by an elected Board of Trustees (Board) composed of four Trustees and a Mayor. The Board is the legislative body responsible for oversight and general management of financial operations.

The Village Clerk-Treasurer (Clerk-Treasurer) is the chief fiscal officer responsible for receiving, disbursing and maintaining custody of money, preparing financial reports and maintaining accounting records.

Quick Facts

Population	440
2017-18 Appropriations	\$937,109
2017-18 Tax Levy	\$240,495

Audit Period

June 1, 2016 – January 5, 2018

We extended our audit period back to September 9, 2005 to review real property taxes paid on Village-owned property.

¹ Refer to New York State General Municipal Law, Article 18

Board Oversight

What Are Adequate Controls Over Receipts and Disbursements?

The board and village officials are responsible for establishing effective controls over cash receipts and disbursements to ensure all receipts are deposited and all disbursements are approved and in the best interest of taxpayers. These controls should provide for segregating duties so that one individual does not control all phases of a transaction. For example, the same individual should not be able to authorize, execute and record a transaction and control the entire cash receipt or disbursement processes.

Properly segregating duties aids in the prevention and timely detection of errors and fraudulent activity. When segregating duties is not possible, the board should provide sufficient oversight by implementing compensating controls. These controls could include having someone independent of the receipts and disbursements processes routinely review bank statements, canceled check images, cash receipts records and bank reconciliations and compare these records to monthly financial reports.

New York State Village Law² requires the board to annually audit, or cause an audit of, the treasurer's annual financial report and supporting records. This audit would provide an independent verification that cash and transactions have been properly accounted for, recorded and reported. It also provides the board with added assurance that financial records and reports contain reliable information on which to base financial decisions.

The Board Needs to Improve Controls Over the Clerk-Treasurer's Duties

The Board needs to improve controls over the Clerk-Treasurer's duties. The Clerk-Treasurer is responsible for all aspects of financial and recordkeeping duties, including depositing money (e.g., real property taxes and permit fees), writing checks, making bank transfers, applying interest and penalties to billed receivables, recording transactions, maintaining accounting records and reconciling bank accounts. However, the Board did not establish any compensating controls to provide additional oversight of these duties, such as reviewing bank reconciliations and canceled check images.

Although the Board contracted with a certified public accountant to prepare and file the annual financial report to be submitted to the Office of the State Comptroller (OSC), this did not constitute an audit of the Clerk-Treasurer's records and report.

Our review of receipts, disbursements and bank reconciliations³ disclosed that the Clerk-Treasurer:

² New York State Village Law, Section 4-408

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- Generally deposited the 96 receipts tested totaling \$366,650 intact in a timely manner and included proper interest and penalties, except for minor discrepancies, which we discussed with Village officials.
 - Did not obtain Board approval for 18 disbursements totaling \$17,110 of 137 we reviewed totaling \$164,600. These unapproved disbursements included the repair and replacement of a storm drain (\$13,263), the purchase of equipment for a sewer project (\$1,419) and various other expenditures including anti-virus protection and employee trainings. All of these disbursements appeared to be for proper purposes.
 - Correctly prepared the 2016 and 2017 October bank reconciliations for the four operating checking accounts, except for minor discrepancies, which we discussed with Village officials. In addition, the Clerk-Treasurer's records agreed with the year-end bank balances for all 14 savings accounts for 2016 and 2017.

The failure to segregate the Clerk-Treasurer's duties, implement compensating controls and provide for an annual audit diminishes the Board's ability to monitor financial operations and increases the risk that errors and irregularities could occur and remain undetected and uncorrected.

How Do Officials Ensure Unused Property Sales Are In the Best Interest of Taxpayers?

A board is responsible for exercising due diligence when considering the sale of real property. It has a fiduciary duty to secure the best price obtainable in its judgment or the most beneficial terms in the public interest. When it determines that property is no longer needed for village purposes, a board, upon adoption of a resolution, may sell the real property.⁴ The method of sale chosen is within a board's discretion, but generally should be the one which a board believes will yield the best price or maximum financial benefits.

Unused Properties May Not Be in the Best Interest of Taxpayers

Village officials pay real property taxes on two properties located outside of Village boundaries, which previously were used as a water source. Officials were unable to determine when they discontinued using these properties but told us that it was at least 20 years ago and may have been as many as 40 years ago. Officials expended approximately \$76,200 in real property taxes over the last 12 years⁵ on these properties. If the Board determines that these properties are

³ Refer to Appendix B for information on our sampling methodology.

⁴ Assuming the property is not parkland or other property which is inalienable absent specific legislative authorization.

not needed for future Village purposes, it should consult with its legal counsel to determine how to properly sell them.⁶

Although Village officials have received an offer from a potential buyer for these properties, the Board had not accepted the offer as of the end of our audit fieldwork.

What Is a Conflict of Interest?

New York State General Municipal Law (GML)⁷ limits the ability of village officers and employees to enter into contracts in which their personal financial interests and public powers and duties conflict. Unless a statutory exception applies, GML prohibits officers and employees from having an interest in contracts with the village, which they serve, when they also have the power or duty – either individually or as a trustee – to negotiate, prepare, authorize or approve the contract; authorize or approve payment under the contract; audit bills or claims under the contract; or appoint an officer or employee with any of those powers or duties. For this purpose, a contract includes any claim, account, demand against or agreement with the village.

Village officers and employees have an interest in a contract when, among other circumstances, they receive a direct or indirect monetary or material benefit as a result of a contract with the village they serve. As a rule, interests in actual or proposed contracts on the part of a village officer or employee, or their spouse, must be publicly disclosed in writing to the municipal officer or employee's immediate supervisor and to the municipal governing body, and must be included in the official record of the governing body's proceedings. However, such disclosure does not cure a prohibited interest under GML.

A Trustee Had a Prohibited Conflict of Interest

A Trustee, as co-owner of a local hardware store, had an interest in contracts between the store and the Village during our audit period.⁸ Each purchase of materials or supplies from the Trustee's hardware store resulted in an agreement with the Village and, thus, a contract for purposes of GML. As co-owner, the Trustee received a direct or indirect monetary benefit as a result of 59 contracts

5 Records relating to these properties' real property tax payments before 2004-05 were unavailable. However, it is likely that officials paid additional real property taxes before 2004-05. Additionally, because the records for payments made in the 2009-10 were unavailable, those amounts are not included in the total taxes paid.

6 For general guidance on the legal requirements for the sale of unneeded village real property refer to the New York State Comptroller's Opinion 90-37 available at <http://osc.state.ny.us/legal/1990/legalop/op90-37.htm>.

7 New York State General Municipal Law, Article 18

8 We reported a similar finding in our prior audit report Village of Hobart – Financial Condition and Internal Controls Over Conflicts of Interest (2011M-60) released in September 2011.

totaling \$2,398 paid by Village officials to the hardware store for materials and supplies during our audit period.

Because the Board audited these claims, the Trustee also had at least one of the powers and duties that gives rise to a prohibited interest in these contracts and we found no indication that any statutory exception⁹ applied to these circumstances. Therefore, the Trustee had a prohibited interest in contracts with the Village.

We reviewed all the invoices submitted by the Trustee's hardware store during our audit period. Although our testing did not reveal any irregularities in pricing, when officials, in their private capacities, conduct business with the village for which they serve, the public may question the appropriateness of these transactions. Such transactions may create an actual conflict of interest or, at a minimum, the appearance of impropriety.

What Do We Recommend?

The Board should:

1. Properly segregate the Clerk-Treasurer's duties or implement compensating controls. Such compensating controls should include, but are not limited to:
 - Reviewing bank reconciliations.
 - Comparing canceled check images with the Board-approved abstracts.
2. Annually audit, or cause an audit of, the Clerk-Treasurer's annual financial report and supporting records.
3. Explore selling the unused properties or consider placing these properties in use to benefit taxpayers.
4. Establish and enforce procedures to help ensure that officers and employees are informed of the conflict of interest provisions of GML and adopt procedures to help detect and prevent prohibited interests in contracts with the Village.

⁹ One exception in GML, is for contracts when the total consideration payable in the aggregate during a fiscal year does not exceed \$750. Contracts with the Trustee's store exceeded \$750 in each of the years we reviewed.

Appendix A: Response From Village Officials

INCORPORATED VILLAGE OF HOBART

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August 17, 2018

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State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417

Re: Written Response Letter to Draft Audit Report and Corrective Action Plan
– Village of Hobart 2018M-88


On July 17th, 2018, the Village of Hobart received and reviewed the preliminary draft findings and recommendations of the Office of the State Comptroller covering the period of June 1, 2016 through January 5, 2018. Village officials, including the Mayor, Trustees and Village Clerk-Treasurer have carefully reviewed the report and recommendations.

Please allow this letter to serve as the Village of Hobart combined audit response and corrective action plan to the Office of the State Comptroller regarding the draft report of the Village's Board oversight. We would like to express our appreciation for the professionalism, courtesy and thoroughness of the two auditors in making this a positive experience for all concerned. The entire process was both helpful and informative and will help the Village continue to move forward in the most positive way possible. Additionally, we are pleased that no serious issues were discovered through their exhaustive investigation.

Our goal as the governing body for the Village of Hobart is to employ a transparent process to efficiently deliver municipal services and to always be responsible officials for the funds taxpayers entrust with us. The Village has already begun implementing the recommendations included in the audit team's report.

Recommendations:

1. Properly segregate the Clerk-Treasurer's duties or implement compensating controls and annually audit the annual financial report and supporting records.

Corrective Action:

The Village of Hobart started working on a corrective action several months ago when this matter was brought to our attention by the audit team. Copies of all bank statements are to be presented to the Board members at each monthly meeting for review. After review and approval, bank statements are initialed by different Board members each month. The Village Mayor does not initial and approve during this process as he has signature power on all accounts.

The Board will also begin conducting an annual audit of the Clerk-Treasurer's records and reports and will become part of the minutes at its annual organizational meeting to provide assurance that public funds are handled properly and to identify conditions that need improvement and provide oversight of financial operations.

2. Explore selling the unused properties or consider placing these properties in use to benefit taxpayers.

Corrective Action:

The property in question was used as the Village's water source for many years. Since finding a new water source, this property has remained owned by the Village. We have been exploring ideas over the past year with regard to selling the property. We are also looking into logging the property prior to selling it in order to generate as much money for the property as possible. Our goal after selling the property is to use the revenue to improve the roadways and infrastructure within the Village.

3. Adopt procedures to help detect and prevent prohibited interests in contracts.

Corrective Action:

The Village of Hobart is a very small Village with only one hardware store. We understand that New York State General Municipal Law limits the ability of Village officers and employees to enter into contracts in which their personal financial interests and public powers and duties conflict. Unfortunately for us, we happen to have an owner of the only hardware store in the Village on the Village Board. The next location for us is 25+/- miles away. The Village will inform all officers and employees of the conflict of interest provisions of the general municipal law at our next monthly meeting and will enforce such moving forward.

We have welcomed this audit process and sincerely appreciate the feedback provided so we endeavor to continue to serve the residents of the Village of Hobart with their confidence.

Sincerely,

Aaron Kaufman
Village of Hobart Mayor

Appendix B: Audit Methodology and Standards

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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Village officials and reviewed Board meeting minutes to gain an understanding of controls in place over fiscal operations.
- We reviewed canceled check images from September 2005 to September 2017 to calculate the Village's real property tax payments for properties owned outside its boundaries.
- We randomly selected 54 receipts from the 545 water and sewer rents, real property taxes, building permits, quarterly sewer receipts and room rentals. We also judgmentally selected 42 water and sewer rents and real property tax receipts that were paid by officials. We traced these receipts to deposit composition slips and bank statements to determine whether they were deposited timely, intact and with proper interest and penalties applied.
- We randomly selected 40 from the 2,325 disbursements and judgmentally selected 97 disbursements¹⁰ and reviewed supporting documentation to determine whether these disbursements were Board-approved and for proper purposes.
- We judgmentally selected the October 2016 and 2017 bank reconciliations for the general, water and sewer checking accounts and recalculated them to determine whether they were complete and accurate. We chose October because, based on the audit team's collective judgment, the risk of fraudulent activity is heightened in the months before Christmas.
- We made inquiries of Village officials to identify their outside employment interests or business ownerships and reviewed Board-approved abstracts to identify payments made to officials, their spouses and dependents or related employers, firms, corporations or associations that may indicate a potential improper or undisclosed interest in contracts.
- We reviewed all the invoices paid to the Trustee's hardware store during our audit period to determine whether prices charged were reasonable.

We conducted this performance audit in accordance with GAGAS (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 objective.

¹⁰ We judgmentally selected the following disbursements: all 37 checks paid in November 2016 (from all four operating accounts) that appeared to be for personal purposes (we chose November because it was the month before Christmas), all 41 electronic transfers made during our audit period, all 18 checks payable to either petty cash, M&T Bank or the general fund and one check paid to an individual that appeared to be for questionable purposes.

We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. 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 Clerk-Treasurer's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

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

www.osc.state.ny.us/localgov/finreporting/index.htm

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

www.osc.state.ny.us/localgov/researchpubs/index.htm

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

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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