



TOWN OF PORTVILLE, NEW YORK

DATE: September 29, 2011

TIME: 9:00AM

MEETING: Town Board Meeting, Town of Portville, New York

LOCATION: Town Municipal Building, 1102 Portville Olean Road, Portville, NY 14770

PRESENT: William Stern, Town Supervisor
Terri Batt, Deputy Supervisor
Gary Woodhead, Councilperson
Charlene Van Dusen, Councilperson
Terri Wilber, Councilperson
Steffanie Bell, Town Clerk

Procedural Compliance

The meeting was opened by Supervisor Stern asking attendees to stand and join him in the "Pledge of Allegiance".

Town Supervisor Stern welcomed everyone and asked the town board, and town clerk to introduce themselves. Four board members were present to satisfy a quorum.

New Business

Agenda Item #1 Office of State Comptroller Audit

Adjournment

Being there was no further business a motion to adjourn at 9:06AM was made by Councilperson Woodhead, seconded by Councilperson Batt and approved by the Town Board. VOTE: Stern (YES), Woodhead (YES), Van Dusen (YES), Batt (YES), Wilber (YES) MOTION CARRIED 5 YES 0-NO

Respectfully submitted and signed,

Steffanie Bell
Town Clerk
Town of Portville, New York



Town of Portville

Financial Management

Report of Examination

Period Covered:

January 1, 2008 — April 30, 2011

2011M-127



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

September 2011

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Portville entitled Financial Management. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of Portville (Town) is located in the southeastern corner of Cattaraugus County and has a population of approximately 3,900 residents. The Town is governed by the Town Board (Board), which comprises five elected members: the Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor, in addition to serving as the chief executive officer, is the chief fiscal officer and budget officer. As the chief fiscal officer, the Supervisor is responsible for ensuring that all revenues and expenditures are properly recorded and accounted for. As the budget officer, the Supervisor is responsible for preparing and presenting to the Board a tentative budget that is in conformance with all relevant statutes.

The Town offers a variety of services to its residents, including street maintenance and improvements, snow removal, and general government support. The Town derives the majority of the moneys to finance these services from real property taxes and State aid. Budgeted appropriations for the 2011 fiscal year total approximately \$954,000 for the general and highway funds.

Objective

The objective of our audit was to evaluate the Town's financial management. Our audit addressed the following related question:

- Did the Board properly manage Town finances by appropriately allocating expenditures between the town-wide and town-outside-village funds?

Scope and Methodology

We examined taxpayer equity of the Town for the period January 1, 2008 to April 30, 2011.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated that they have taken, or plan to initiate, corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the 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 this plan available for public review in the Clerk's office.

Taxpayer Equity

Because the Village of Portville (Village) is located within the Town, the Town must maintain separate funds to account for transactions that are required by law to be budgeted and accounted for in town-wide funds or town-outside-village funds. Accordingly, financial statements and reports issued by the Town should include transactions within the correct fund, in accordance with generally accepted accounting principles, and demonstrate the Town's compliance with statutory requirements for segregating town-wide and town-outside-village resources.

The Town's operating funds include the town-wide general fund and town-wide highway fund, which have a tax base that encompasses the entire Town, including the Village. The town-outside-village general fund and town-outside-village highway fund have tax bases that encompass only the portion of the Town which lies outside the incorporated boundaries of the Village.

We found that Town officials did not properly budget or account for revenues and expenditures in the town-wide and town-outside-village funds, as required. As a result, for 2008 through 2010, town-outside-village resources were used for town-wide expenditures totaling \$65,575, and during 2009, town-wide resources were used for town-outside-village expenditures totaling \$88,998. Town officials continued to improperly budget town-outside-village resources to be used for town-wide expenditures totaling \$25,172 in the 2011 budget. The continued errors in budgeting and accounting practices have resulted in taxpayer inequity.

The Board has little discretion to determine whether financial activity is budgeted and accounted for in town-wide, or town-outside-village funds. Generally, expenditures must be budgeted in the town-wide funds unless statute requires or permits them to be accounted for in town-outside-village funds. There is no statutory authority for activity related to the cemetery, justice court, highway administration, garage, or legal fees to be budgeted and accounted for in a town-outside-village fund. In addition, although Highway Law allows the Board, by resolution, to determine whether machinery and snow/brush removal are budgeted and accounted for in the town-wide or town-outside-village highway funds, highway road maintenance must be accounted for in the town-outside-village highway fund.

We reviewed the adopted budgets and accounting records for fiscal years 2008 through 2010 and found that town-wide general fund

expenditures were improperly budgeted and accounted for in the town-outside-village funds, as follows:

	2008	2009	2010	Total
Cemetery	\$5,000	\$5,000		\$10,000
Justice Court ^a		\$4,318	\$1,250	\$5,568
Highway Administration		\$555	\$420	\$975
Garage		\$7,308	\$15,752	\$23,060
Legal Fees			\$25,969	\$25,969
Totals	\$5,000	\$17,181	\$43,391	\$65,572

^a Net of revenues accounted for in town-outside-village general fund of \$8,750 and \$13,679, for 2009 and 2010, respectively.

Cemetery expenditures for 2008 were properly budgeted for in the town-wide general fund. However, in November 2008, the former Supervisor¹ inappropriately charged expenditures totaling \$5,000 to the town-outside-village general fund, even though the claim itself had the correct appropriation code written on it. The current Supervisor stated that this was done to shift the cost to what the Board decided was the more appropriate tax base. Beginning in 2009, the Board budgeted certain expenditures, as noted above, in the town-outside-village funds, believing this action provided more taxpayer equity,² without regard to statutory requirements. The 2011 adopted budget continued to improperly include justice court expenditures totaling \$15,600 in the town-outside-village general fund, and garage expenditures totaling \$9,572 in the town-outside-village highway fund.

In addition, during 2009, the Supervisor improperly accounted for highway road maintenance expenditures totaling \$88,998 in the town-wide highway fund. The claims for these expenditures were correctly coded as town-outside-village, by the Highway Superintendent, but were subsequently changed by the Supervisor prior to payment. Although lacking statutory authority to do so, the Supervisor indicated the intent was to deplete the remaining moneys in the town-wide highway fund so that the fund, which the Board felt was unneeded, could be eliminated.

Because the Town's financial transactions affect different tax bases, it is important for Town officials to accurately budget and record revenues and expenditures in the proper funds to maintain equity among taxpayers in compliance with statutory requirements. While the net effect of these errors over the four year period in which they

¹ Former Supervisor Harry Keeley resigned effective October 20, 2010.

² According to the current Supervisor, who was a Councilman in 2008.

will have occurred (2008–2011) is approximately \$2,000, Town officials cannot continue to disregard the Town Law as this could result in disparities that are more significant.

Recommendations

1. The Board should adopt town-wide and town-outside-village funds budgets that include revenues and expenditures allocated in accordance with statutory requirements.
2. The Supervisor should record revenues and expenditures in the town-wide and town-outside-village funds in accordance with generally accepted accounting principles and statutory requirements.
3. The Supervisor should correct prior year accounting errors relating to the improper recording of financial activity between town-wide and town-outside-village funds.

APPENDIX A
RESPONSE FROM TOWN OFFICIALS

The town officials' response to this audit can be found on the following pages.



Office of the State Comptroller
295 Main Street, Room 1032
Buffalo, NY 14203-2510

AUGUST 31, 2011

Response Summary Comment:

The Town of Portville has always wished to comply with all NYS accounting and policy practices to the best of its ability. After seeking OSC advice along the way, implementations have occurred. We do need to know, however, from whom we can seek guidance on an ongoing basis from OSC so as to ensure that our accounting and policy practices are aligned.

See
Note 1
Page 13

The Town of Portville has placed great emphasis over the past 4 years on eliminating any government waste, keeping taxes as low as humanly possible, transparency and maintaining a minimal but sufficient level of service meeting our customers' expectations. In 2008, the town implemented a website to house all information that had been transacted by the town, occurred in a public meeting, reflected active laws, resolutions and ordinances as well as gave daily updates regarding tax bills, tax payments, and collection results. In 2009, the Town of Portville eliminated the charging of highway services and court services to the village property owners since those property owners were not recipients of those services. Also in 2009, the town implemented a purchase order system that saved well in excess of \$50,000 in like product year over year. Further in 2009, a security monitoring system was installed to stop the theft of fuel, salt, sand, and other highway materials which previously had been a significant shrinkage problem. In 2010, the town initiated a shared services program with the village, two fire districts and one school district by implemented a shared fuel facility that reduced overall fuel costs for all entities and improved the environment.

The net result of these efforts has been to keep the tax levy as low as possible.

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TOWN OF PORTVILLE, NEW YORK

Operating Budget	2007	2008	2009	2010	2011
A - Adnin Tow nw ide	272,492	320,672	221,220	231,527	354,695
B - Adrrin Tow nwide Excluding Village	19,474	18,340	215,990	175,184	39,812
DA - Hwy Tow nw ide	242,700	202,205	92,000	5,869	
DB - Hwy Tow nwide Excluding Village	245,250	245,518	353,233	428,243	559,948
	<u>779,916</u>	<u>786,735</u>	<u>882,443</u>	<u>840,823</u>	<u>954,455</u>
Allocated Funds	2007	2008	2009	2010	2011
A - Adrrin Townw ide	69,000		130,563	75,000	34,764
B - Adrrin Tow nw ide Excluding Village	5,000				
DA -Hwy Tow nw ide			92,000	5,869	
DB - 1-tw y Tow nw ide Excluding				44,089	282,181
	<u>74,000</u>		<u>222,563</u>	<u>124,95B</u>	<u>316,945</u>
Non-Tax Revenue	2007	2008	2009	2010	2011
A - Adnin Tow nw ide	113,425	126,025	45,781	94,866	43,000
B- Adnin TownwIde Excluding Village	3,400	4,400	51,600	36,000	36,000
DA -Hwy Tow nw ide	16,000	500			
DB - Hwy Tow nwide Excluding Village	59,500	58,000	52,500	75,000	
	<u>192,325</u>	<u>188,925</u>	<u>149,881</u>	<u>205,866</u>	<u>79,000</u>
Tax Levy	2007	2008	2009	2010	2011
A - Adnin Tow nw ide	90,067	194,647	44,876	61,661	276,931
B- Adnin Tow nw ide Excluding Village	11,074	13,940	164,390	139,184	3,812
DA - I-Mt y TownwIde	226,700	201,705			
DB - Hwy TownwIde Excluding Village	185,750	187,518	300,733	309,154	277,767
	<u>513,591</u>	<u>597,810</u>	<u>509,999</u>	<u>509,999</u>	<u>558,510</u>
Town Millrate	CY2007	CY2008	CY2009	CY2010	CY2011
Tow n Properties Outside Village	4.987735	4.587372	4.595147	4.558082	4.558080
Village Properties	2.771268	2.792820	0.325075	0.446215	1.994525
Town Millrate Growth	CY2007	CY2008	CY2009	CY2010	CY2011
Tow n Properties Outside Village	7.3%	-8.0%	0.2%	-0.8%	0.0%
Village Properties	-5.9%	0.8%	-88.4%	37.3%	347.0%

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Finding: A \$5,000 cemetery expenditure was properly budgeted in 2008 and again in 2009 in the town-wide general fund (A Fund) but were charged in both years to the town-outsidevillage fund (B Fund).

Response: A \$5,000 cemetery expenditure was posted against the B Fund in 2008 after having received written authorization from the Department of Cemeteries who had received written opinion from OSC. In 2009, the \$5,000 cemetery expenditure in both 2009 and 2010 was budgeted in town-outside-village fund (B Fund) because the Chestnut Hill Cemetery, where maintenance is being performed with the use of these funds, is located in in SWIS 047489 (Town of Portville) under Tax ID (104.002-1-58). We have included the approved town budgets that match the tax warrant for your review and inclusion. The expenditures in both 2009 and 2010 were charged to the town-outsidevillage (B Fund). However, it should be noted that the Chestnut Hill Cemetery Association has two additional properties: 1) their administrative building SWIS 047401 (Village of Portville) underTax ID (104.057-2-4) and 2) peripheral property outside of the grave maintenance area under SWIS 047401 (Village of Portville) under Tax ID (104.0502-4). If in the future it is the opinion of the OSC that we budget in the A Fund, we will certainly do that even though the applicable work being performed with the funds is outside of the Village of Portville. See attached approved budgets.

See
Note 2
Page 13

Finding: Justice Court expenditures were charged to town-outside-village (B Fund) rather than town-wide (A Fund) In 2009, 2010 and continuing in 2011.

Response: In 2008, a meeting was held with the Office of the State Comptroller to better understand how various budget items should be classified. Here are the highlights of that meeting. We were told that all elected officials must be budgeted and paid for out of the town-wide fund (A Fund). This matter came up because were wondered about funding the highway superintendent out of the DB fund and the two town justices out of the B Fund. Since that discussion, those positions have been budgeted out of the A Fund as was the practice before the OSC meeting. However, at the same time we were told that we should fund the remainder of the town court out of the B Fund because the Village of Portville has its own court justice, court clerk, and Infrastructure. In other words, the two courts are unique — one within the village as part of the village municipal corporation and one within the town as part of the town municipal corporation. The two courts handle exclusively the cases within their respective municipal corporation and not within the other. In other words, they do not have jurisdictional authority to hold court or make decision

See
Note 3
Page 13

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regarding the other municipality. Further within that meeting, it was discussed that since the Village of Portville has its own highway department and has no Interdependency upon nor receives services from the Town of Portville Highway Department, all future tax levies for highway services should be out of the DB Fund.

Additionally the OSC advised us that we could take DA unallocated funds and use them as DA allocated funds in the subsequent year's budget to be offset by whole or partial highway department expenses and that the remaining balance of highway expenditures less monies received from CHIPS would result in a tax levy exclusively against the DB Fund. Thus, that has been the practice since that time. Thus, in 2009 in the approved budget (see attachment), \$92,000 in DA unallocated funds went into DA allocated funds to cover off expenditures identified a N91-N93. So while the highway superintendent may have coded it for DB, it was budgeted in DA. No negative impact on the taxpayer has thus occurred.

See Note 4 Page 13

Finding: Legal fees of \$25,969 were charged in town-outside-village rather than town-wide.

Response: The town attorney bills have always been and continue to be budgeted and charged against the A Fund. However, it is true that the legal costs from Hodgson Russ were charged to the DB Fund because that firm was representing the town in its negotiations with Union Local 264 that was representing the Town Highway Department employees in their efforts to unionize. In 2011, all such legal costs relating to the union negotiation are being charged to the A Fund. We would like to be sure that funding and expenditure out of the A Fund is what we should be doing for these DB-related union negotiations. Please advise.

See Note 5 Page 13

Finding: Although a standard work day has been set, the hours worked reported could not be confirmed by the auditor since records of activities had not been maintained by elected and appointed officials for a sample period.

Response: The Town currently maintains thorough records with regard to elected and appointed individuals who are paid on an hourly basis. Such records indicate, for each hour worked, exactly to which jobs employees have charged their time. These records, in the form of weekly timesheets, are approved by both the immediate supervisor as well as the Town Supervisor.

See Note 6 Page 13

Town Supervisor

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APPENDIX B

OSC'S COMMENTS ON THE TOWN'S RESPONSE

Note 1

If Town officials require guidance, they may contact the Regional Office as indicated at the end of this report. Guidance given by Office of the State Comptroller (OSC) staff is aligned with State statute and policy.

Note 2

The documentation referred to, and subsequently presented for our review, from the New York State Department of State, Division of Cemeteries offered no guidance on the basis of accounting for cemetery expenditures. The Town is required to account for revenues and expenditures in accordance with the Uniform System of Accounts issued by OSC. Cemetery revenues and expenditures are to be accounted for on a town-wide basis (A fund) regardless of the physical address of the cemetery.

Note 3

Our record of the 2008 meeting indicates that due to improper budgetary practices, brought to our attention by a current and a former Town official, we attempted to clarify with the former Supervisor the need to keep town-wide and town-outside-village activity separated since they are different tax bases. However, our guidance was not heeded and the Town was selected for audit due to serious concerns regarding taxpayer equity. Justice court expenditures are to be funded and accounted for on a town-wide (A fund) basis, regardless of whether the Village also has a justice court.

Note 4

Our record of the 2008 meeting indicates that due to improper budgetary practices, brought to our attention by a current and a former Town official, we attempted to clarify with the former Supervisor the need to keep town-wide and town-outside-village activity separated since they are different tax bases. However, our guidance was not heeded and the Town was selected for audit due to serious concerns regarding taxpayer equity. As the report states, although Highway Law allows the Board, by resolution, to determine whether machinery and snow/brush removal are budgeted and accounted for in the town-wide (DA) or town-outside-village (DB) highway funds, highway road maintenance must be funded and accounted for in the town-outside-village (DB) highway fund.

Note 5

There is no statutory authority allowing legal fees associated with employee contract negotiations to be funded and accounted for on less than a town-wide (A fund) basis.

Note 6

Our audit report did not address the inadequacy of time records for retirement reporting purposes. Those issues are being addressed separately by the New York State and Local Employees Retirement System.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: the Supervisor's records and reports, cash receipts and disbursements, purchasing, payroll and personal services, and the Town Clerk, Tax Collector, and Justice Court operations. During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents, such as Town policies, Board minutes, and financial records and reports.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected taxpayer equity for further audit testing. Our examination included the following:

- We reviewed the 2008, 2009 and 2010 adopted budgets, and revenue and expenditure reports for those years, to determine if revenues and expenditures were properly charged to town-wide and town-outside-village funds.
- We reviewed the 2011 adopted budget to determine if conditions identified for the previous fiscal years continued.
- We interviewed Town officials, and documented and evaluated their responses related to financial management.

We conducted our 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.

APPENDIX D

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AND SCHOOL ACCOUNTABILITY

Steven J. Hancox, Deputy Comptroller
Nathalie N. Carey, Assistant Comptroller

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