



Carle Place Garbage District Board Oversight

Report of Examination

Period Covered:

January 1, 2010 — December 31, 2011

2012M-4



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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2012

Dear District 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 Board of Commissioners 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 Carle Place Garbage District, entitled Board Oversight. 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 Carle Place Garbage District (District) is located in the Town of North Hempstead in Nassau County. The District is a district corporation of the State, distinct and separate from the Town, and governed by an elected three-member Board of Commissioners (Board). The District also is a component unit of the Town of North Hempstead, which is financially accountable for the District. The Board contracts with a private company to provide garbage collection services to about 2,200 residential and commercial units. The District uses the transfer facility of the Town of North Hempstead, Solid Waste Management Authority, for its disposal.

A Board member serves as District Treasurer (Treasurer). The Treasurer is the District's chief fiscal officer, and is responsible for the receipt, custody, disbursement, and accounting of District funds. The Treasurer prepares monthly and annual financial reports, including the annual report to the Office of the State Comptroller (OSC) and the annual report of revenues and expenses to the Town Clerk. Another Board member is the District Secretary, who is responsible for recording the proceedings of Board meetings and for retaining custody of all the District's records.

The District's total expenditures for fiscal year 2010 were approximately \$661,000, of which \$627,000 were for garbage collection services. The District's revenues for fiscal year 2010 were approximately \$536,000, primarily from property taxes. Available fund balance at December 31, 2010 was \$9,904 and is expected to be unchanged at December 31, 2011.

Objective

The objective of our audit was to examine the District's financial operations. Our audit addressed the following question:

- Did the Board provide adequate oversight of District financial operations to ensure that District assets were properly safeguarded?

Scope and Methodology

We examined the District's financial operations for the period January 1, 2010 to June 30, 2011. We extended our review of the District's financial operations to include the period January 1, 2009 to December 31, 2011 and included the budget adopted for 2012.

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 is 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 District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action. Our comments on issues District officials raised in their response are included in Appendix B.

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 Secretary's office.

Board Oversight

The Board is responsible for managing and overseeing the District's overall fiscal affairs, safeguarding its resources, and ensuring that applicable laws, rules, and regulations are observed. This responsibility includes establishing policies relating to maintaining a reasonable level of fund balance, consistent with prudent budgeting practices. Such policies and procedures are necessary to ensure that the District maintains sufficient cash flow to fund current operations. In addition, the Board is responsible for designing a system of internal controls that consists of policies and procedures to provide reasonable assurance that goods and services are procured on the best possible terms, investment decisions are made in accordance with the law, and officials are made aware of their ethical responsibilities.

The Board needs to improve its oversight of the District's financial operations. The Board has not ensured that the District maintained a reasonable level of fund balance or that cash flow was sufficient to meet current obligations. Further, the Board has not adopted a fund balance policy to provide guidance on how much fund balance to maintain or how fund balance will be used while also maintaining sufficient cash flow to fund operations. As a result, available fund balance has declined significantly in recent years, to the point that it will negatively impact the District's ability to fund operations in the first two months of 2012. In addition, the Board has not adopted a procurement policy, an investment policy, and a code of ethics, as required by law.

Budgeting Practices and Retention of Fund Balance

Unassigned fund balance¹ is defined as the difference between the total assets for a fund and the total liabilities, deferred revenues, nonspendable assets, encumbered appropriations, amounts appropriated for the ensuing fiscal year's budget, and amounts restricted or committed for stated purposes. Town Law permits special districts to retain a reasonable amount of any remaining estimated unreserved, unappropriated fund balance² consistent with prudent budgeting practices that is necessary to ensure orderly operations. In making this determination, the District must take into account factors

¹ The Governmental Accounting Standards Board (GASB) issued Statement 54 in February 2009, which abandons the reserved and unreserved classifications of fund balance and replaces them with five new classifications: Nonspendable, Restricted, Committed, Assigned, and Unassigned. The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. While Statement 54 affects the manner in which various portions of fund balance are referred to, the statutory requirements related to fund balance and reserves have not changed.

² This is akin to unassigned fund balance under GASB 54.

including the size of the fund, cash flows, the certainty with which the amounts of revenues and expenditures can be estimated, the District's experience in prior fiscal years, and the amount of taxes to be levied. Recent legislation,³ beginning for fiscal year 2012, requires that local governments generally cannot increase the property tax levy by more than 2 percent, or the rate of inflation, whichever is lower. The legislation also gives local governments the option to override the tax cap for the coming fiscal year.

The Board has not developed policies to establish appropriate levels of fund balance or manage its use. As a result, available fund balance has declined from \$285,125 at January 1, 2008 to a projected balance of under \$10,000 at December 31, 2011, or a decrease of approximately \$275,000. This occurred because the District incurred significant operating deficits of \$121,639 and \$125,000 during the 2010 and 2011 fiscal years. These operating deficits occurred primarily because the District entered into a new contract with its garbage collector starting in 2010, and collection prices increased by \$127,000, or 25.4 percent over the prices charged in 2009. However, even though the Board was aware that its garbage collection expenditures would rise by this amount, it did not plan to raise more revenues to fund these additional expenditures in 2010 and 2011. Instead, the Board used \$125,000 in fund balance each year to balance the budget and pay for these increased costs. However, the Board did not establish a plan to replenish fund balance and address the District's cash flow needs once fund balance was depleted.

Table 1: Results of Operations						
	Actual 2008	Actual 2009	Actual 2010	Projected 2011	Budgeted 2012	Total
Beginning Fund Balance	\$285,124	\$269,723	\$256,543	\$134,904	\$9,904	
Revenues	\$509,891	\$524,657	\$539,237	\$561,970	\$752,600	\$2,888,355
Expenditures	\$525,292	\$537,837	\$660,876	\$686,970	\$752,600	\$3,163,575
Operating Surplus/ (Deficit)	(\$15,401)	(\$13,180)	(\$121,639)	(\$125,000)	\$0	(\$275,220)
Ending Fund Balance	\$269,723	\$256,543	\$134,904	\$9,904	\$9,904	
Tax Levy	\$500,210	\$518,715	\$536,481	\$560,262	\$752,100	
Increase in Tax Levy		3.70%	3.43%	4.43%	34.24%	

³ This legislation affects local governments including special districts established under articles 12 and 12A of the Town Law and 5-A, 5-B and 5-D of the County Law.

Fund balance is now depleted to the point of creating a potential cash flow deficiency that may negatively affect operations in the beginning of the 2012 fiscal year. Furthermore, because appropriated fund balance is not an ongoing source of revenue, its continued use eventually creates a revenue shortfall in future years' budgets, if exhausted. Consequently, District officials will be compelled to replace this lost funding source with increases in property taxes to fund normal recurring operating costs. The negative effects of this budgeting practice culminated with the adoption of the 2012 budget, which required the Board to override the 2 percent property tax cap and increase the District's tax levy by more than 34 percent.

Further, the District will experience cash flow difficulties in the first two months of 2012 because the year-end unassigned fund balance is estimated to be under \$10,000 at December 31, 2011. According to a recently awarded contract, the District's monthly garbage collection payment in 2012 will be \$56,695. Because the District projects unassigned fund balance at January 1, 2012 of only \$9,904, it may not have sufficient cash to meet the January 2012 contractual payment. Further, the District may not receive the first half of the real property tax payments from the Town until February or March 2012⁴ and, therefore, may not be able to meet the February contractual payment. District officials informed us that they have taken steps to ensure that their cash flow position would not impact their ability to meet their obligations in 2012. They indicated that, under the terms of the new contract with the garbage collector, the District may pay the collector for the months of January 2012, January 2013, and January 2014 in February of each year.⁵

Prudent budgeting practices and diligent management of fund balance requires the Board to develop long-term fiscal planning that balances the need to meet increasing operating costs and the need to maintain sufficient cash flow, while considering the impact on the property tax levy. Financing operating deficits with available fund balance is a risky budgeting practice that is unsustainable for the long-term. Unless the District replenishes fund balance, this practice will ultimately lead to potential fund deficits, continued cash flow deficiencies, and volatility in the tax levy.

⁴ The Town of North Hempstead collects the District's real property taxes and forwards the tax collection semi-annually to the District, in February and August of each year. In 2010, the District recorded the first tax payment on March 1, 2010 and recorded the first half of the 2011 tax payment on February 25, 2011.

⁵ This is a new provision, which was not included in the prior contract, but added to the recently awarded three-year contract for garbage removal.

Board Policies

The governing board should, and in some cases must, develop and formally adopt policies that establish control procedures and other requirements for the daily management of the District's financial affairs and operations. Every policy adopted by the governing board should be customized to fit the unique needs of each local government, reviewed, and updated periodically, as needed. There are several policies that a governing body must develop, adopt, and periodically review to meet various legal requirements, including a procurement policy, an investment policy, and a code of ethics.

Procurement Policies — General Municipal Law (GML) requires special districts to adopt internal policies and procedures for the procurement of goods and services when competitive bidding is not required. When a purchase of goods or services is not subject to competitive bidding requirements, GML generally requires that the procurement policy provide that alternative proposals or quotations be sought. One of the most prominent exceptions to competitive bidding is professional services. Professional services generally include services rendered by attorneys, accountants, engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity. While the District is not legally required to competitively bid when procuring professional services, using competition, such as using a request for proposal process for obtaining quotes, is an effective way to ensure that the District receives the desired services for the most favorable terms.

The Board has not adopted a comprehensive procurement policy for the purchase of goods or services not subject to competitive bidding requirements, which would include solicitation of proposals or quotations for professional services. As a result, District officials did not solicit competition when procuring professional services and, therefore, cannot be assured of receiving the best quality services at the best price.

During the audit period, the Board authorized payments for services totaling \$1,000,650, which included \$950,600 for the contract for the collection of refuse, and \$18,450 for professional services.⁶ We reviewed these expenditures and found that, while the District used competitive bidding as required by law when securing the garbage collection contract, it did not use any competitive procedures when procuring legal or accounting services totaling \$17,250. District officials informed us that they received a referral from their prior attorney to appoint the current counsel and the District's accountant

⁶ Expenditures for professional services included \$13,750 for accounting services, \$3,500 for legal services and \$1,200 for insurance services.

has been providing accounting services for over 10 years. These informal procedures cannot ensure that professional services are procured in a manner consistent with best business practices.

Without a comprehensive policy and detailed guidance or written procedures supporting the District's procurement policy, the Board does not have reasonable assurance that goods and services are procured in a cost effective manner. The appropriate use of competition provides taxpayers with the greatest assurance that services are procured in the most prudent and economical manner and without favoritism.

Investment Policies — GML requires special districts to adopt internal policies and procedures for the investment of government funds. The Board must establish, implement, and monitor such investment policies to help ensure that District resources are properly managed. The investment policy must include, but need not necessarily be limited to, standards for security and collateral agreements, a list of types of permitted investments, standards for diversification of investments, standards for the qualifications of firms with which the unit transacts business, and procedures to satisfactorily secure the local government's financial interests in investments. The investment policy is required to be reviewed annually.

The Board has not adopted an investment policy. For the 18-month period January 2010 through June 2011, the District had an average monthly cash balance of \$213,642 held in an interest-bearing checking account. However, only 12 of those monthly cash balances were fully covered by Federal Deposit Insurance Corporation (FDIC) insurance, which collateralized balances of up to \$250,000. For the other six months, the District held excess cash balances that were not covered by the FDIC, ranging from \$3,451 to \$103,421. Without the adoption of a comprehensive investment policy, requiring the collateralization of all bank deposits, the District's money may be exposed to unnecessary risk of loss. In addition, the Board does not have reasonable assurance that its intentions for investing District funds are met or that investments are made in accordance with applicable laws.

Code of Ethics — GML requires special districts to adopt a code of ethics. The Board should adopt a code of ethics that includes requirements for District officers to disclose their interests in businesses and their holding of investments and/or private employment in conflict with their official duties.

The Board has not adopted a code of ethics as required by law. Without a code of ethics, the Board does not have reasonable assurance that

commissioners are made aware of their ethical responsibilities. An ethics policy generally will make the commissioners aware of the importance of principled behavior, and the need to guard against conflicts of interest.

Recommendations

1. The Board should adopt a policy to establish a reasonable amount of fund balance sufficient to meet the District's short-term operating needs and provide a cushion for unexpected increases in the cost of services.
2. The Board should use prudent budgeting practices when preparing the annual budget, balancing the need to appropriate excess fund balance to reduce taxes and the ability to maintain a reasonable cash flow to finance current operations.
3. The Board should adopt a procurement policy that includes procedures for the procurement of goods and services not subject to competitive bidding, including professional services, as required by law.
4. The Board should adopt an investment policy setting forth the parameters under which money can be securely invested, and requiring that cash and investments held on deposit be fully collateralized, as required by law.
5. The Board should adopt a code of ethics setting forth District officials' ethical responsibilities, as required by law.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



CARLE PLACE GARBAGE COMMISSION

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c-mail: cpgarbage@gmail.com

Joanne Del Vecchio

Chairwoman

James Mezey

Treasurer

Jon P. Wicks

Secretary

March 17, 2012

Office of the State Comptroller
NYS Office Bldg, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533

Re: Carle Place Garbage District - Board Oversight
Report of Examination – 2/17/12

Dear Sir/Madam:

This letter is being submitted in response to the draft "Report of Examination" provided to our District on or about February 17, 2012, concerning an audit conducted by the Office of the State Comptroller covering the period of January 1, 2010 – December 31, 2011.

As a preliminary matter, the Board wishes to note that the auditors involved in this process were professional, courteous, and respectful during all phases of the audit. Upon reading the report and meeting again with the auditors, the Board was gratified to confirm that the Carle Place Garbage District is operating without any violations or substantial problems. The Board is cognizant of the fact that the recommendations made in the Report, particularly concerning the Fund Balance, will assist the Board in improving its operations and in serving the residents of Carle Place, which is the Board's sole function and goal. Finally, the Board intends to promptly implement all such recommendations.

Next, as is stated in the Report it is important to note that this District is comprised of three (3) Commissioners, whom are elected by the residents of Carle Place. Not noted in the Report, but nevertheless important, is the fact that these Commissioners incur little or no operating expenses while serving the Carle Place community in their official capacities. For example, the Commissioners do not maintain office space instead, as has been their tradition, they use their private homes and/or their attorney's office, for Board or other meetings. Thus, they do not incur rental expenses, nor do they maintain separate phone lines or other office related equipment/necessities. Moreover, they do not enjoy perks, pensions, or other benefits associated with Commissioner positions' in other Districts. While they do receive a stipend for their work, it is *below* the going stipend rate approved by the Town of North Hempstead and paid to Commissioners in other Districts. The Town of Carle Place covers one square mile and the

Carle Place Garbage District

Garbage District encompasses approximately 2200 homes. In sum, these Commissioners provide a public service to the residents of Carle Place out of their concern for and devotion to their community.

With that said, please note our comments as follows:

I. Introduction

In the section under "*Objective*" it is noted that the audit addressed the following question: "Did the Board provide adequate oversight of the District's financial operations to ensure that District assets were properly safeguarded?" In reference to this question, it should be noted that while additional and/or different oversight procedures should and will be implemented, all assets always were, and remain, preserved and identifiable.

In the "Introduction" section under "*Comments of Local Officials and Corrective Action*," the Board will provide a written corrective action plan addressing the findings and recommendations on or before May 17, 2012.

II. Board Oversight

In order to address the finding that the "Board did not ensure that the District maintained a reasonable level of fund balance or that cash flow was sufficient to meet current obligations" the following information is offered as additional information/explanation.

First, this finding relates to fiscal year 2012 only, as a review of prior years will reveal a *surplus* of funds. In addition, through negotiated language in the District's new three year contract with Meadow Carting, the District *will* be able to meet its current obligations. The terms of the new contract, as negotiated between the District's counsel and the Carting Company counsel, rectified the problem concerning an initial shortage of funds in the beginning of 2012, as well as any potential shortage of funds in the beginning of the following two fiscal years.

As for the reason the District's fund balance was depleted, the following answer is offered: During the years 2010 and 2011, a Town of North Hempstead Councilman approached our District and spoke to the three District Commissioners. During these meeting the Councilman exerted a great deal of pressure on the District to return money from the District's fund balance that was not essential for its operation during the current and following fiscal year. Although the Board expressed its concern to the Councilman and the Town of North Hempstead about the wisdom of such a refund, which might cause a future fund balance deficit, the Board's warnings were ignored and additional pressure was exerted. Admittedly, yet unfortunately, the District Commissioners bowed to this pressure and returned approximately \$ 250,000 to the Town of North Hempstead between 2010 and 2011. This refund is the main reason the District Fund Balance is facing a shortage in fiscal year 2012. In addition, and during this same relevant time period, tipping fees imposed by the Town also increased, further straining the

See
Note 1
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Carle Place Garbage District

District's surplus funds. As noted above, the Board has made adjustments in its current contract and will make adjustments to future budgets to rectify the fund balance shortage and to ensure this situation does not recur.

In response to the auditor's findings that "[t]he negative effects of this budgeting practice culminated with the adoption of the 2012 budget, which required the Board to override the 2 percent property tax cap . . ." it is respectfully submitted that this finding is only partially correct. The main reason the 2 percent tax cap was exceeded was due to tremendous increase in carting costs, primarily due to fuel cost increases, as well as an increase in tipping fees imposed by the Town of North Hempstead. Thus, even if surplus funds had not been returned to the Town between 2010 and 2011, the District would still, in all likelihood, have had to override the tax cap, if not in fiscal year 2012 than most likely in fiscal year 2013.

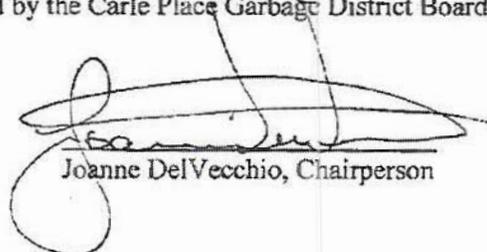
In addition, on *November 30, 2011*, after the District had provided the required tax cap information to the State Comptroller's Office, the Town of North Hempstead advised the District that as early as *2008* civil judgments had been entered against the District by two utilities in the amount of \$261,259.83. Accordingly, though unknown to the District at the time, this liability would have, and will in future budgets, effect the District's tax cap.

III. Recommendations

In response to the recommendations set forth in the Report, the Board notes the following:

1. A Fund Balance Policy was adopted by the Board on November 21, 2011 (said policy will be provided in the Board's "Corrective Action Plan").
2. The Board will use prudent budgeting practices when preparing the annual budget, balancing the need to appropriate excess fund balance to reduce taxes and the ability to maintain a reasonable cash flow to finance current operations.
3. The Board will adopt a Procurement Policy (said policy will be provided in the Board's "Corrective Action Plan").
4. The Board will adopt an Investment Policy (said policy will be provided in the Board's "Corrective Action Plan").
5. The Board will adopt a Code of Ethics (said policy will be provided in the Board's "Corrective Action Plan").

This Response is respectfully submitted by the Carle Place Garbage District Board of Commissioners.



Joanne DelVecchio, Chairperson

Carle Place Garbage District

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

We agree that the District's financial difficulties did not manifest until the end of the 2011 fiscal year. However, our report shows that the District reported annual operating deficits in each of the fiscal years 2008 through 2011, aggregating \$275,200. The lack of a fund retention policy and the District's inability to replenish fund balance resulted in its depletion and the cash flow difficulties experienced in the 2012 fiscal year.

Note 2

We acknowledge that the contractual nature of the District's operation may have required the Board to override the District's 2 percent real property tax cap for the 2012 fiscal year. However, had the Board followed more prudent budgeting practices in prior years, the increase in the property tax levy would have been significantly less than the 34 percent increase needed to balance the District's 2012 budget.

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 District 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: financial oversight, cash receipts and disbursements, and purchasing.

During the initial assessment, we interviewed appropriate District officials, performed limited tests of transactions and requested pertinent documents, such as District policies and procedures manuals. We reviewed Board minutes, financial records, and reports. In addition, we reviewed the District's internal controls.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and decided upon the reported objective and scope by selecting for audit those areas most at risk. We determined that the area of Board oversight had the most risk as it relates to legal and regulatory compliance, financial condition, fraud, and abuse. Discussed below are the specific data and testing that was done to accomplish the objective with respect to this area:

- Reviewed District policies and procedures and compared to legal requirements
- Reviewed Board minutes for evidence of approval of budgets, contracts, and monitoring of fund balance
- Interviewed District Commissioners and the District's independent accountant
- Reviewed financial statements, general ledgers, and bank statements
- Reviewed budget practices, fund balance and cash flow trends, and evaluated their impact on current operations
- Reviewed contracts with professional service providers and compared payments to contract terms
- Requested information on related party transactions from Commissioners and reviewed their disclosures.

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.

APPENDIX D

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