



Town of Minisink

Board Oversight and Financial Condition

Report of Examination

Period Covered:

January 1, 2009 — March 31, 2011

2011M-215



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

February 2012

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 Minisink, entitled Board Oversight and Financial Condition. 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Minisink (Town) is located in Orange County (County) and is governed by the Town Board (Board), which comprises five elected members including the Town Supervisor (Supervisor) and four council members. The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor serves as the Town's chief executive officer and chief fiscal officer. The Supervisor has appointed a clerk to handle the day to-day financial operations. The Town's annual budgets for 2009 and 2010 were \$2,713,249 and \$2,487,982.

Scope and Objective

The objective of our audit was to examine the Town's financial operations for the period January 1, 2010 to March 31, 2011. We extended our review of the Supervisor's records to May 3, 2011, and included fund balances back to 2005 to demonstrate trends. Our audit addressed the following related questions:

- Did the Board provide adequate oversight to ensure that financial activities are accurately recorded and reported in a timely manner?
- Did the Board properly oversee and monitor financial operations to maintain the Town's fiscal stability?

Audit Results

The Board needs to improve its oversight of the Town's financial operations. The Supervisor did not provide adequate training and oversight of the clerk which resulted in Town park, franchise fee and roof repair transactions to be incorrectly recorded in the trust and agency fund. General ledgers were not kept current and the monthly reports to the Board lacked essential information such as the abstracts or payrolls paid. Finally, the Board did not audit the records and reports of the Supervisor, Clerk, Planning Board or Justices for 2009 or 2010 as required by law even though they received or disbursed moneys on behalf of the Town. As a result, the Board's ability to account for and manage financial resources was significantly diminished.

The Board also did not implement adequate procedures for the preparation of financial reports. Consequently, the Supervisor did not provide appropriate information such as year-to-date financial results, which caused the Board to repeatedly adopt budgets that overestimated mortgage tax revenues. As a result, the town-wide general fund balance declined from \$370,140 in 2005 to a deficit fund balance of \$156,733 in 2010. This caused cash flow problems resulting the Supervisor making five

advances of moneys held in a trust and agency account to the town-wide general fund, which is not allowed by Law. As a result, there is an increased risk that the Town will not be able to meet its obligations and sustain its level of services.

Comments of Local Officials

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. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

Introduction

Background

The Town of Minisink (Town) is located in Orange County and includes the hamlets of Westtown and Johnson and the Village of Unionville. The Town covers approximately 23 square miles and has approximately 4,500 residents. The Town is governed by the Town Board (Board), which comprises five elected members including the Town Supervisor (Supervisor). The Board is responsible for the general management and control of the Town's financial affairs. The Supervisor serves as the Town's chief executive officer and chief fiscal officer. As the chief fiscal officer, the Supervisor is responsible for virtually all of the Town's financial duties. To help the Supervisor maintain the accounting records, the Supervisor has appointed a clerk to perform the day-to-day financial operations.

The Town has eight full-time employees and 22 part-time employees which includes all Board and committee members. The Town provides various services to its residents, including general administration, road maintenance and snowplowing. The Town derives its revenue mainly from real property taxes, sales tax, and mortgage tax. The Town's general fund budgets for 2010 was \$484,139, with budgets for all funds totaling \$2,487,982. For 2011, the budget for all funds was \$2,517,295.

Objective

The objective of our audit was to examine the Town's financial operations. Our audit addressed the following related questions:

- Did the Board provide adequate oversight to ensure that financial activities are accurately recorded and reported in a timely manner?
- Did the Board properly oversee and monitor financial operations to maintain the Town's fiscal stability?

Scope and Methodology

We examined the Board oversight and financial condition of the Town for the period January 1, 2009 to March 31, 2011. We extended our review of the Supervisor's records to May 3, 2011, and included fund balances back to 2005 to demonstrate trends.

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 Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated that they planned to take 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. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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.

Board Oversight

The Board is responsible for overseeing and monitoring the Town's financial operations. To accomplish this, the Board must ensure that the Supervisor correctly records all financial transactions, keeps general ledgers up-to-date and prepares monthly financial reports that include the information necessary for the Board to monitor and manage the Town's fiscal condition. The Board must also annually audit the records and reports of all officers and employees who receive or disburse moneys on behalf of the Town to ensure that financial resources are accounted for.

The Board needs to improve its oversight of the Town's financial activities. The Supervisor did not provide adequate training and oversight of the clerk, which resulted in transactions that were incorrectly recorded in the trust and agency fund, general ledgers that were not up-to-date and monthly reports that lacked essential information. Finally, the Board did not audit the records and reports of the Supervisor, Clerk, Planning Board or Justices for 2009 or 2010. As a result, the Board's ability to account for and manage financial resources was significantly diminished.

Accurate and Timely Records

The Supervisor is responsible for maintaining an accurate, complete and up-to-date account of the receipt and disbursement of all Town moneys. Accordingly, the Supervisor is required to account for and report financial activity in conformance with the *Accounting and Reporting Manual* (ARM) published by the Office of the State Comptroller (OSC). The ARM provides local governments with the uniform system of accounts and types of funds to be used, and requires that they adhere to Generally Accepted Accounting Principles (GAAP). According to GAAP, the Town is required to use fund accounting.

The Supervisor has appointed a clerk who's duties include recording transactions in the Town's accounts and preparing the year-end Annual Update Document (AUD) that must be submitted to OSC. However, the Supervisor did not provide proper training and oversight so that the clerk performed these duties correctly. As a result, the amounts recorded and reported did not properly reflect the financial activity that occurred with respect to the Town parks, inter-fund-loans, and repairs and franchise fees. In addition, transactions were not posted to the general ledgers in a timely manner. For example:

- Town Parks — the clerk set up an account for the upkeep and expansion of the Town's parks with developer fees that

were restricted for that purpose. However, the clerk recorded the moneys in the trust and agency fund instead of a special revenue fund, as required. As a result, moneys totaling \$105,000 were incorrectly reported as being held for a third party as of December 31, 2010.

- **Inter-Fund Loans** — the clerk did not include inter-fund loans that had accumulated to \$157,000 at the end of 2010 in the AUDs submitted to OSC. As discussed later in this report, these were moneys that were not permitted to be loaned to other funds. If these loans had been reported, the Board may have become aware of them and would have had the opportunity to prevent these inappropriate transactions.
- **Repairs and Franchise Fees** — in 2009 the clerk wrote a \$32,000 check for a roof repair for the Town Hall out of the trust and agency fund. The roof repair was a routine expenditure and should have been paid with general fund moneys. Also, the Town recorded franchise fees in the trust and agency fund. Franchise fees are general fund revenues and should be recorded and reported in the general fund. The clerk recorded franchise fees in the trust and agency fund prior to January 2010, because Town officials believed that funds in the trust and agency account could be held and used to offset unexpected expenditures. By not recording these as revenues and expenditures in the general fund, the Town's fund balance would be misstated.
- **General Ledger** — the Town's general ledger was not kept current. In April 2011 transactions were only posted up to January 2011. By May 2011 general fund transactions were posted through March. The clerk told us that the manual records make it difficult for her and one part-time person to keep current.

Due to the lack of accurate and timely accounting records, the Board cannot rely on the amounts stated as fund balance, and the accountability and effective management of financial resources is significantly diminished.

Reports to the Board

Town Law states that the Supervisor is required to give the Board a detailed statement of all moneys received and disbursed each month. The Supervisor must also submit other financial information to the Board upon request, such as budget to actual reports for revenues and expenditures.

The Supervisor distributed financial reports to the Board on a monthly basis. However, because the Board did not require the Supervisor to provide accurate and complete reports, the information was not sufficiently detailed. For example, the receipt section of the report did not provide any detail of the receipts other than the amount received and who it was received by. Similarly, the disbursement section did not provide detailed information such as the abstracts that were paid, or the amounts of payroll or wire transfers made. In addition, the Supervisor did not report budget to actual results for revenues and expenditures.

Furthermore, when the Supervisor made inter-fund loans from the trust and agency account to the town-wide general fund. The monthly report did not indicate that these were inter-fund loans. In total, the Supervisor made inter-fund loans totaling \$162,000 during 2009 and 2010 without properly disclosing them to the Board.

The Supervisor contended that he provided correct and accurate information and that the Board members could ask if they had any questions. However, because the information he provided was vague, misleading and not detailed, the Board's ability to ask relevant questions and monitor and manage the Town's fiscal condition was severely limited. If the Board members had been provided properly detailed reports they may have inquired about the inter-fund loans and prevented these inappropriate transactions.

Annual Audit

By January 20th of each year, each officer or employee who received or disbursed moneys in the previous year must account to the Board for such moneys and produce all supporting books, records, receipts, warrants, vouchers, and canceled checks or check images for audit. The Town Law also requires that the Board shall examine the criminal and civil dockets of each Justice. The Board may alternatively engage the services of an independent public accountant to complete annual audit within 60 days after the close the fiscal year.

The Board did not audit or cause an audit of the records and reports of the Supervisor, Clerk, Planning Board, Justices or any other officers or employees who received or disbursed moneys in 2009 and 2010. The Supervisor indicated that the Board reviewed the general ledger and disbursements on a monthly basis and felt that was sufficient. He also stated that no Board member had requested to review or audit the records and believes that court dockets are not public records, and therefore, the Board should not review them because of privacy concerns.

The Board's monthly review of the general ledger and disbursements does not constitute an annual audit because it does not include the

review of necessary records such as receipts and canceled checks. Further, if the Board chooses to not review the dockets of the Justices, the Board may engage an independent public accountant to audit the records and reports of the Justices. The failure to audit or cause an audit of the records and reports of officers and employees who receive or disburse moneys prevents the Board from ensuring that they have accurately and completely accounted for financial resources, and that errors or irregularities have not occurred and remained undetected and uncorrected.

Recommendations

1. The Supervisor should provide proper training and oversight of his clerk so that the accounting records and reports are accurate and up-to-date.
2. The Board should require the Supervisor to provide detailed comprehensive monthly reports.
3. The Board should audit or cause an audit of the records and reports of Supervisor, Clerk, Planning Board, Justices and any other officers or employees who receive or disburse moneys on behalf of the Town.

Financial Condition

A measure of a town's financial condition is its ability to provide and finance services on a continuing basis. The Board is responsible for ensuring that the Supervisor provides adequate financial reports for use in the budget process. This allows the Board to adopt budgets that include realistic estimates for revenues to finance expenditures, and to maintain sufficient cash flow to pay bills and other obligations when due, without relying on inter-fund advances.

The Board did not implement procedures for the preparation of financial reports. Consequently, the Supervisor did not provide appropriate information, which caused the Board adopt budgets that overestimated revenues. This caused the town-wide general fund balance to decline from \$370,140 in 2005 to a deficit fund balance of \$156,733 in 2010. As a result, the Supervisor advanced moneys held in a trust and agency account to the town-wide general fund, which is not allowed by Law.

Fund Balance

A key measure of the financial condition of a local government is the level of fund balance that it maintains. Fund balance is the difference between revenues and expenditures accumulated over a given period of time. Fund balance can be used to manage unexpected occurrences such as unanticipated shortfalls in revenues and for cash flow purposes. Inadequate fund balance limits the ability of Town officials to manage emergencies and other unanticipated occurrences.

The Town has experienced a steady decline in the town-wide general fund balance over the past five years.

Town-Wide General Fund						
	2005	2006	2007	2008	2009	2010
Fund Balance	\$370,140	\$332,055	\$173,908	\$70,224	(\$80,107)	(\$156,733)
Change		(\$38,085)	(\$158,147)	(\$103,684)	(\$150,331)	(\$76,626)

The town-wide fund balance declined from \$370,140 in 2005 to a deficit of \$156,733 in 2010. This decline and the deficit fund balance were caused primarily by inaccurate budget estimates of mortgage tax revenue caused by the Board's inability to monitor financial operations due to a lack of adequate financial reports.

The Board has repeatedly adopted budgets that overestimated mortgage tax revenues over the past three years.

Mortgage Tax Revenues			
	2008	2009	2010
Estimated Revenue	\$250,000	\$314,000	\$200,000
Actual Revenue	\$166,102	\$97,682	\$104,670
Difference	(\$83,898)	(\$216,318)	(\$95,330)

Because mortgage tax revenue represents a significant portion of Town's revenues, the annual budgeted amounts must be reasonable and supported. Any shortfall will can affect the Town's ability to meet its obligations and sustain its level of services.

The fund balance decline and deficits caused cash flow problems that resulted in the Supervisor advancing moneys collected for engineering bonds and escrows held in a trust and agency account to the town-wide general fund which is not allowed by General Municipal Law (GML). A trust and agency account is a fiduciary fund and for that reason may not be used for general fund operations.

Inter-Fund Loans

GML allows municipalities to temporarily advance moneys held in one fund to another fund to address budget shortfalls when available cash is not sufficient to pay current obligations. Such advances must be authorized by the Board and repaid by the close of the fiscal year in which they were made. GML does not allow trust and agency money held for a third party to be used for current operations.

The Supervisor made three inter-fund loans from the trust and agency fund to the town-wide general fund in 2009 totaling \$110,000 and two inter-fund loans in 2010 totaling \$52,000. After paying back \$5,000 in 2010, the outstanding balance was \$157,000 as of December 31, 2010. All transfers were done at the discretion of the Supervisor alone; there were no Board resolutions authorizing these loans. Furthermore, these moneys were not repaid by the end of the fiscal year.

The inter-fund loans were made from moneys collected for engineering bonds and escrows. The Supervisor felt it was better to use these moneys rather than borrowing money and paying interest or increasing taxes. The Supervisor also felt that it was the Town's money and it could be used for current operations. However, trust and agency funds are money held for third parties, and for that reason the Supervisor's use of the trust and agency funds violated the provisions of the General Municipal Law.

Recommendations

4. The Board should implement policies and procedures for the preparation of financial reports including budget to actual results for revenues and expenditures.
5. The Board should:
 - Adopt structurally balanced budgets that include realistic estimates for revenues
 - Closely monitor estimates for revenues against actual revenues throughout the year
 - Consider year-to-date financial results in the budget process.
6. The Board should authorize any legal inter-fund loans made and ensure that they are properly recorded and repaid by the close of the fiscal year in which they were made.
7. The Supervisor should not use trust and agency moneys to make inter-fund loans for current operations.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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



LEWIS H. LAIN
SUPERVISOR

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January 26, 2012

Christopher Ellis
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This is my response to the audit of the Town of Minisink that covered the period from January 1, 2009 to March 31, 2011. The auditor lists a number of problems with the running and bookkeeping within the Town. I will attempt to address the issues that were presented.

The auditor pointed out that the town park developer fees were listed as a trust and agency account instead of a special reserve account. This has been this way for over 30 years. We have been audited several times since the set up of this fund and no previous auditor has commented on its placement. This will be changed.

It was pointed out that the Town made interfund loans that were not permitted. Due to the catastrophic collapse of the housing market we were unable to receive the necessary funding in General A so we transfer money from another account, as a loan to the General A Fund. This was well documented and will be paid back.

See
Note 1
Page 17

The cable TV franchise fees were questioned. The franchise fees were originally kept in a separate account to help bring cable TV to more of the town (another accounting that was previously audited by the State Comptroller's Office and not cited as wrong). Minisink is a rural town. When the franchise was signed only 20 of the town's 50 miles of road were strung for cable. The cable company would only run more cable if the density along the road reached 18 houses per mile. We felt that using the franchise money for helping run cable in the town would benefit the town. We would pro-rate roads that were a little low on the number of homes needed and pay the difference to the cable company from the franchise fees so they would run the cable. The Town is now mostly stung for cable and the account was used for an emergency repair and then the account was closed out to the General A fund. The franchise fees have been shown as an anticipated revenue in the General A budget since 2010 so this item has already been addressed.

See
Note 2
Page 17

Audit comments -2-

The auditor remarks that the general ledger was not kept up to date. The ledger was not up to the day but was not more than a few weeks behind. All subsidiary ledgers were up to date so current budget standings were available. The Town of Minsink still does ledgers by hand and occasionally they will fall behind since the bookkeeper also helps the court, the building inspector and the highway superintendent. The auditor also admitted she had only audited computer towns and had trouble following a paper trail.

See
Note 3
Page 17

The supervisor presented detailed reports to the Town Board every month, though the auditor did point out in the exit interview that the phrasing was wrong on one item. That will be addressed in the future.

See
Note 4
Page 17

It was also stated that the supervisor's clerk was not properly trained. My clerk was trained by an accountant and also attended state comptroller's training classes.

See
Note 5
Page 17

The auditor contends that the mortgage tax was unrealistically computed. She also stated that we should use historical data to prepare future budgets. The housing collapse, as we now know, was something of a depth that has never occurred. We did use historical data, using numbers from the last large collapse in the late 1980's. That condition of the market was also extreme, but did not last nearly as long. The Board felt that the market rebounding slightly along with historically low interest rates leading to refinancing that our numbers were realistic. The auditor remarked that more information should be presented to the Town Board during the budget process. The auditor never asked to see the data that was given to the board members for budget preparation. During the budget process the entire board meets to create the budget. All year-to-date revenues, expenditures standing and fund balances are provided to the board when we prepare the budget. It was also interesting that the auditor used the mortgage tax numbers from 2008 through 2010 when the audit covers 2009 through 2011. If the numbers for 2011 had been shown it would be a much lower number for expected revenue of mortgage tax.

See
Note 6
Page 17

See
Note 7
Page 18

The Town has reviewed the report and is currently taking steps to resolve some of the issues presented. Some of the issues were already addressed.

Sincerely,



Lewis H. Lain
Supervisor

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The Town's declining fund balance has been caused by a failure to adopt structurally balanced budgets, and it should therefore be addressed through the budget process. As stated in the report, General Municipal Law does not allow trust and agency money held for a third party to be used for current operations and any inter-fund loans must be authorized by the Board and repaid by the close of the fiscal year in which they were made. As of December 31, 2011, the Supervisor borrowed another \$35,000 without Board authorization. The Town's general fund now owes a total of \$192,000 to other funds.

Note 2

We have amended our report to indicate that the clerk recorded franchise fees in the trust and agency fund prior to January 2010.

Note 3

On April 4, 2011, we requested the 2011 general ledger and found that the clerk had not posted entries past January 31, 2011. Therefore, there were nine weeks with no accounting entries. On May 3, 2011, we requested the general ledger again and found that the clerk had not posted entries for the general fund past March 2011, and had not posted any other funds past February 2011. Regardless of whether the Town had manual ledgers, the posting of the transactions was severely delinquent.

Note 4

As indicated in the report, the Supervisor provided monthly reports to the Board. However, the item referred to was the description for inter-fund loans which were described only as a "receipt" in the general fund on the monthly reports in 2009 and 2010. By not stating that these "receipts" were actually inter-fund loans, the Supervisor misled the Board. The Board's ability to ask questions was limited because of the general nature of this term.

Note 5

Although the Clerk may have been trained by an accountant and attended some training classes, the Supervisor did not provide adequate training to ensure that the amounts recorded and reported are properly reflected the financial activity that occurred. Additional training could help address these issues.

Note 6

During fieldwork, we asked to see the data that was given to the Board during the budget process. Nothing was provided during fieldwork, or to date, for us to review.

Note 7

We used mortgage tax numbers from the completed years 2008 through 2010 for our audit and found that mortgage tax was overestimated by \$395,546. Our field work began in March 2011 and ended in June 2011. Although we did not have a completed year to review for 2011, we found that the Town budgeted \$200,000 for mortgage tax for 2011, despite only having received \$104,670 in 2010.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our audit included various procedures to gather relevant evidence concerning our stated objective. The procedures included the following:

- We interviewed Town officials, performed limited tests of transactions, and reviewed documents such as policies and procedures, Board minutes, and financial records and reports.
- We reviewed the general ledger accounts for all funds for 2009 and 2010 to determine if they were accurate and up-to-date.
- We reviewed the Annual Update Document (AUD) as submitted by the Town and recorded by the Office of the State Comptroller.
- We reviewed the Supervisor's financial report for July 2009, August 2009, July 2010, August 2010, December 2010 and March 2011. We selected these months based on receipt activities, year-end, and the last completed month prior to fieldwork.
- We analyzed revenue and expenditure trends and the changes in fund balance of the town-wide general fund from 2005-2010
- We reviewed adopted budgets for 2008-2011.
- We reviewed the bank statements of the town-wide general fund cash account for all of 2009 and 2010.
- We reviewed the bank statements of the engineering bond cash account for 2009 and 2010.
- We reviewed the list of deposits in the engineering bond account.
- We reviewed a security agreement and letters from the Town's engineer.

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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