Office of the New York State Comptroller

Division of Local Government
& School Accountability

# Town of Orchard Park

## Financial Management

### Report of Examination

Period Covered:

January 1, 2010 — June 15, 2011

2012M-27

Thomas P. DiNapoli

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# State of New York
# Office of the State Comptroller

**Division of Local Government**
**and School Accountability**

June 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 Orchard Park, 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 Orchard Park (Town) is located in Erie County and has a population of approximately 28,000 residents. The elected three-member Town Board (Board) is responsible for managing Town operations, including establishing internal controls over financial operations and maintaining sound financial condition. The Town Supervisor (Supervisor) is a member of the Board and serves as the chief executive and chief fiscal officer.

The Supervisor is also the Town's budget officer. The Supervisor prepares the tentative budget with the assistance of accounting staff and a CPA firm retained to advise the Town on financial matters, The Board has an opportunity to modify the budget and then must adopt the budget for the next fiscal year by November 20th. Town Law authorizes the Town to maintain reasonable levels of fund balance.

The Town provides various services including street maintenance, snow removal, police protection, water and sewer service, refuse collection, recreational programs, and general government support. The Town's 2011 budget totaled approximately $19.5 million for all operating funds. Operations are financed primarily by real property taxes, user fees, sales tax, and State aid. At December 31, 2010, the Town reported 49 capital projects, with an aggregate cash balance of over $7.2 million, in the capital projects fund.

**Objective**

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

- Did the Board adequately oversee and account for the Town's financial operations?

**Scope and Methodology**

We examined the Town's financial records for the period January 1, 2010, to June 15, 2011. We reviewed financial information back to January 1, 2008 to provide perspective for fund balances.

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. As noted in Appendix

A, Town officials disagreed with some of our findings, but indicated they planned to take certain corrective action. Appendix B includes our comment on an issue 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 Town Clerk's office.

# Financial Management

The Board is responsible for making sound financial decisions that are in the best interest of the Town and the taxpayers that fund its operations. The Board must adopt structurally balanced budgets for all operating funds that provide sufficient revenues to finance expenditures. In addition, the Board and Town officials must ensure that all money is used for its intended purpose and properly recorded in the appropriate fund.

The Town may retain a reasonable portion of fund balance to use as a financial cushion in the event of unforeseen financial circumstances, and can legally set aside and reserve portions of fund balance to finance future costs for a variety of specified objects or purposes. In determining a reasonable amount of fund balance, the Board should consider factors such as the timing of receipts and disbursements, the volatility of revenues and expenditures, the need for contingency appropriations, and the Board's intention to fund reserves. A reasonable fund balance is a key element of effective financial planning that can have several benefits including stabilizing the tax rate.

The Town accumulated excessive fund balances in nine special districts at the end of the 2010 fiscal year by adopting budgets that underestimated revenues and/or overestimated expenditures. For the nine special districts, the 2010 fund balances represented 78 to 5,019 percent of the 2011 appropriations. As a result, the Town has retained an excessive amount of taxpayer dollars. In addition, the Town has approximately $1.4 million sitting idle in 18 capital projects funds. Finally, the Town has over $866,200 in cash and fund balance in special revenue funds that should be recorded and reported in the general fund. The available fund balance in the general fund at December 31, 2010 was $3.9 million, or 36 percent of 2011 appropriations. The transfer of cash to the general fund from other funds would leave the general fund with excessive fund balance.

**Special Districts**

A special district is an independent unit of local government organized to perform a single function or a restricted number of related functions. Special districts generally have the power to incur debt and levy taxes. Examples of special districts are water districts, drainage districts, sewer districts and fire protection districts.

The Board underestimated revenues and/or overestimated expenditures in the 2010 adopted budget for these nine funds (a lighting district, four sewer districts, three water districts, and a garbage district), which resulted in operating surpluses. The total

net favorable budget-to-actual variance for the funds was $733,504. Another factor contributing to the excessive fund balances is the relatively small amounts of fund balance the Board used to finance the ensuing year's budget. On average, for all the funds, the Board appropriated only 7.33 percent of fund balance each year from 2008 through 2010. The Board's overly conservative budgeting practices have resulted in the Town maintaining excessive fund balances in these funds.

**Table 1: Excessive Fund Balances**

| Fund | Fund Balance (Unreserved, Unappropriated) | | | 2011 Appropriations | Fund Balance as a % of 2011 Appropriations |
|---|---|---|---|---|---|
| | 2008 | 2009 | 2010 | 2011 | |
| Lighting District | $318,146 | $365,339 | $401,475 | $328,389 | 122% |
| Sewer District #3 | $109,598 | $110,133 | $109,014 | $43,906 | 248% |
| Sewer District #13 | $92,792 | $93,643 | $ 93,399 | $1,861 | 5,019% |
| Sewer District #18 | $2,197,224 | $2,164,554 | $2,248,570 | $666,451 | 337% |
| Sewer District #19 | $60,080 | $65,470 | $70,223 | $14,996 | 469% |
| Water District #8 | $334,484 | $329,859 | $328,074 | $56,445 | 581% |
| Water District #9 | $164,894 | $160,838 | $164,097 | $18,514 | 886% |
| Water District #17 | $251,974 | $273,158 | $318,918 | $364,743 | 87% |
| Garbage District | $1,105,325 | $1,253,366 | $1,368,147 | $1,746,328 | 78% |

We compared the 2012 adopted budget to the unaudited fund balance at December 31, 2011 for the nine funds and found that 2011 year end fund balances were also excessive.

An important aspect of budget preparation includes a reasonable estimate of the amount of fund balance that will be available at the end of the fiscal year. Information concerning the amount of fund balance available for appropriation has an impact on the amount of tax levy needed to fund the subsequent fiscal year's budget.

## Capital Projects Fund

The purpose of a capital projects fund is to account for all of the financial activity related to the acquisition or construction of major capital assets. The Board and Town officials are responsible for establishing procedures to properly authorize, finance, and monitor the status of individual capital projects to ensure that monies are properly accounted for and used only for their intended purposes. The Board may also establish capital reserves[1] to provide a mechanism for legally saving money to finance all or part of future capital improvements and equipment.

[1] See General Municipal Law Section 6-c

A significant amount of Town resources are being reported and sequestered in the capital projects fund. We identified idle cash in 18 reported capital projects. The 18 capital projects with cash balances totaling over $1.4 million at December 31, 2010 have been completed or canceled. For example:

- The Bussendorfer Drainage capital project was established in 1997 and as of December 31, 2010 had a cash balance of $413,541. This project has been on the Town's books for 15 years, but had no expenditures recorded for the project for at least the past three years.

- The Forest Avenue Bridge project was established by the Board in August 2004 and as of December 31, 2010 had a cash balance of $558,749. The project has not progressed beyond the preliminary planning and design stages. Moreover, a bond anticipation note issued to fund this bridge project has been paid back and no expenditures, other than consultant services, were charged to this project.

We also identified 10 projects with cash balances totaling $1.8 million that the Town appeared to be treating as capital reserves[2] because some of this cash was used to make equipment purchases. Therefore, the funds were used for capital reserve purposes rather than ongoing capital projects. We asked Town officials for Board resolutions creating capital reserves for the equipment purchases; however, no such Board resolutions had been adopted. If it is not the Board's intention to maintain these accounts, this cash should be returned to the appropriate operating fund. Not reporting this activity properly reduces transparency for taxpayers and interested third parties and does not allow them to fully evaluate the Town's financial condition.

**Special Revenue Funds**

A special revenue fund is a governmental type fund that accounts for the proceeds of specific revenue sources that are legally restricted to expenditures for a specific purpose. At December 31, 2010, the Town reported over $866,200[3] in cash and unreserved fund balance in seven miscellaneous special revenue funds. The Board did not adopt an annual budget for any of the seven funds. Instead, appropriations were approved by Board resolution as needed. We believe that most of these moneys, and the related financial activity, should be accounted for and budgeted in the general fund.

For example, cash of $592,208 was reported in the Public

[2] The projects in question appeared to be funded by transfers from various operating funds, State aid revenue, or transfers from other capital projects.

[3] The seven reported miscellaneous special revenue funds were: Ecology ($95,421), Parkland Development ($168,475), Public Improvements ($592,208), Millennium Bricks ($2,404), Wall of Heroes ($297), Historic Campus ($7,436), and Orchard Park Community Youth ($127).

Improvements miscellaneous special revenue fund (PIP Fund) at December 31, 2010. This fund accounts for cash collected[4] by the Town from contractors for inspection services performed by Town engineering staff or by contractors retained by the Town to perform specialized inspection services. The Town charges the inspection costs incurred by the Town engineering staff and contractors to the general fund or to the PIP Fund. The expenditures incurred by the Town to provide the inspection services should be offset against recognized revenues, which were generated from those expenditures. Matching revenues with related expenditures in the same fund allows for a better evaluation of the actual cost of providing the services. Further, this matching can also be used to determine whether the fee is sufficient to cover the costs or if it is excessive and generating a surplus. Because there appears to have been no legal restriction on the use of the fees collected by the Town, this activity should have been accounted for in the general fund and would have resulted in an increase in its unreserved, unappropriated fund balance.

**Recommendations**

1. The Town should take steps to ensure that reasonable fund balance levels are maintained.

2. Town officials should monitor the progress of each capital project, close out any completed or inactive projects, and return the residual cash balance to the operating fund.

3. The Board should establish capital reserves to set aside moneys for intended equipment acquisitions, in compliance with statutory provisions.

4. The Town should report the miscellaneous special revenue fund financial activity in an operating fund.

[4] The fee charged by the Town is known as a PIP.

# APPENDIX A

## RESPONSE FROM LOCAL OFFICIALS

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

# TOWN OF ORCHARD PARK

S 4295 South Buffalo Street Orchard Park, New York 14127-2609

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May 10, 2012

Mr. Robert E. Meller
Chief Examiner of Local Government and School Accountability
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Re: Report of Examination 2012M-27

Dear Mr. Meller:

This letter is in response to the NYS Comptroller's Report of Examination for period January 1, 2010 to June 15, 2011.

Regarding the concern about Special Districts and the Town potentially retaining excessive fund balances we respond as follows:

- The Lighting District is cited as having fund balances that have grown from 2008 to 2010 and the fund balance at 2010 exceeds the total appropriations for 2011. We would like to point out that the tax rate in this District in 2003 was $.231777 and the tax rate for 2012 was $.211941 – that means over this ten year period the tax rate in this special district has decreased approximately 9.4%. This decrease in tax rate was achieved through prudent fiscal management and cost containment/reductions achieved through improvements to the lighting system. We expect to use the fund balance to continue lighting infrastructure improvements and further reductions in tax rates.

- Sewer Districts No. 3, 13, 18 and 19 were cited as having excessive fund balances. The Town's sewer system currently has no remaining debt from construction or reconstruction. However, this also means that the sewer infrastructure is getting older and will be in need of significant repair in the near future. The tax rates in most of the Town's sewer district are approximately the same or lower than they were ten years ago – we have experienced increases in cost for the treatment of wastewater, but the elimination of debt service has assisted in maintaining rates. We are currently studying the town-wide system to determine the extent of future improvements required and the associated cost. While we will use these fund balance to maintain or reduce rates in the sewer districts, we feel it prudent to examine the system condition in conjunction with individual district fiscal condition.

- Water Districts No. 8, 9 and 17 were cited as having excessive fund balances. The tax rates in District's 8 and 9 from 2003 to 2012 have decreased by 9.0% and 51.7%, respectively. The water districts had significant improvements (and

issued related bonded debt) in years 2005-2007, with further improvements currently under consideration. We expect to continue to reducing rates while maintaining and improving the water infrastructure system.

- The Consolidated Garbage District is cited as having fund balances that have grown from 2008 to 2010 and the fund balance may be excessive. This District pays for the pickup and disposal of refuse through a contract with a vendor, it also provides for a recycling program and for the operation and maintenance for a composting center. In 1995 the rate per unit (single family home) was $255.04; however, in 2012 (17 years later) the rate per unit was $190.33. Much of this decrease is attributable to market conditions and bidding of the services, but some is due to the development of the compost center and taking refuse out of the disposal system. We have made significant improvements to the compost center. However, the compost center also uses equipment which is very expensive to replace and we have built some of the fund balance in order for the Town to maintain steady rates while preparing for the eventual replacement of such equipment.

Regarding the concern with the Capital Projects Fund relating to funding (or partially funding) of certain projects prior to the actual project construction or equipment purchase, we respond as follows:

- The Town Board generally meets twice per year with the Town's Engineer, Highway Superintendent and Accountant (and other department heads as they request capital needs) – this Town Board work session is open to the public. Each ongoing project is reviewed as to activity, funding, grant applications and other aspects of the project. Additional future capital needs are discussed and adjustments to the documented capital plan are made as needed. As well as being discussed in a work session meeting, the capital plan is a written document and each individual project is disclosed in the Town's Comprehensive Annual Financial Report. The process, project status and project balances could not be more transparent to the public. The last capital project status meeting was held on February 29, 2012.

- The report cited the Bussendorfer Drainage project as having been established in 1997 as an example of a project partially funded but with no activity. This particular project is one of importance to the residents that reside in that part of the Town. However, this project is reliant upon several other drainage projects being completed and various other complications. The funding in the project will not nearly be enough for the project, but does provide for engineering work and to apply for potential grants should they become available. This partial funding was deemed a prudent first step in a long process and the Town believes it was a commitment to accomplish this import project to our residents.

- The report cited the Forest Avenue Bridge project as having been established in 2004 with a cash balance as of December 31, 2010. This project had grants from the Federal government and New York State that have taken years to get reviewed and approved. Since the grants were not yet approved the Town could not proceed with construction of the bridge. The Town had a short-term borrowing, using a bond anticipation note, to provide the funding that the auditor saw as available at December 31, 2010. However, this borrowing was repaid

during 2011 and the project also got underway during 2011. Therefore, the cash balance is entirely gone as of December 31, 2011.

Regarding the concern with Special Revenue Funds relating to accounts for the proceeds of specific revenue sources we respond as follows:

- The report cites the separate accounting in special revenue funds for seven different accounts where funds have either been donated or placed on deposit with the Town for specific purposes. These donations/deposits are maintained separately such that the Town can display to the donors and public that such funds have been used in accordance with the terms of the donation or that the deposits have been appropriately maintained. The Town's Comprehensive Annual Financial Report contains and displays the balances and activity in each of these accounts – it is significantly more transparent to the public than comingling such activity with an operating fund. In addition the General Fund is to be used for all activities that are not required to be reported in another fund, since these are not funded and cannot be used in any way for the general Town operations they should be accounted for in separate funds.

See Note 1 Page 13

- The report cites the Public Improvement Permit fund as an example of a fund with $592,208 in cash at December 31, 2010. These funds come from developers and others that are required to make certain improvements to properties. The monies are placed on deposit with the Town for the inspection of such improvements to ensure they are accomplished to required standards. These inspections are sometimes done by independent contractors and the monies placed on deposit are used to pay inspection fees, and sometimes the inspections are done by the Town's Engineering Department in which case the charge for such should be transferred to the General Fund to cover the cost of Town employees providing the service (and sometimes it is a combination of independent contractor and Town staff providing inspection services). Due to the varying methods of inspection services, the Town Engineer occasionally reviews the balance in the Public Improvement Permit account and recommends maintaining an appropriate balance for inspections for which there are deposits, but the services have not yet been provided. During 2011, $500,000 was transferred out of the Public Improvement Permit fund and the cash balance remaining in the account at December 31, 2011 was $93,144.

We appreciate the professionalism and thorough conduct of the audit. We hope that you can see that the Town is prudent with all fiscal matters and takes an active approach in controlling current costs while planning for the future.

Sincerely,

Janis Colarusso
Supervisor

## APPENDIX B

## OSC COMMENT ON THE TOWN'S RESPONSE

Note 1

As we indicate in the report, a special revenue fund is a governmental type fund that accounts for the proceeds of specific revenue sources that are legally restricted to expenditures for a specific purpose. The Public Improvement Fund was the largest of the seven miscellaneous special revenue funds reported at December 31, 2010. There does not appear to be any restriction on the use of the Public Improvement Permit (PIP) fees imposed by the Town, which are accounted for in the miscellaneous special revenue fund. Furthermore, the Town's response indicates that the cash generated by the PIP fee can be transferred to the general fund because in 2011 a substantial amount of cash was transferred. Therefore, the entire amount of fees collected should be accounted for in the general fund.

# APPENDIX C

## AUDIT METHODOLOGY AND STANDARDS

To accomplish the objective of the audit and obtain valid audit evidence, we interviewed appropriate Town officials and employees, tested selected records, and examined pertinent documents for the period January 1, 2010, to June 15, 2011. Our procedures included the following steps:

- We reviewed the Town's annual update documents (AUDs) and comprehensive annual financial reports (CAFRs) for a three-year period 2008 through 2010. We compared fund balance information from the AUDs and CAFRs to adopted budgets for 2009 through 2011. We also used the CAFRs for more detailed information on special revenue funds and capital projects funds.

- We interviewed Town officials regarding budgeting, record keeping and financial reporting matters and to determine the status of particular projects reported in the capital projects fund.

- We reviewed the Town Code section related to the parkland fee charged to developers of subdivisions, as well as the Town Code section related to public improvement fees.

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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# APPENDIX E

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