



Town of Wayland

Fiscal Oversight

Report of Examination

Period Covered:

January 1, 2009 — July 28, 2011

2012M-111



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

November 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 Wayland, entitled Fiscal 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 Town of Wayland (Town) is located in Steuben County (County) and has a population of approximately 4,300 residents and includes the Village of Wayland (Village). The Town provides various services to its residents including fire protection, street maintenance, snow removal, and general government support. For the 2011 fiscal year, the Town budgeted appropriations were \$435,235 for its general fund and \$774,782 for its highway fund, funded primarily by real property taxes, sales tax, fees and State aid.

The Town is governed by an elected five-member Town Board (Board) comprising the Town Supervisor (Supervisor) and four council members. The Board is responsible for the general oversight of the Town's operations and finances. The Supervisor is the chief fiscal officer (CFO) and is responsible for the receipt, disbursement, and custody of Town moneys; maintaining accounting records; and providing the Board with timely, accurate, and useful financial reports. The Supervisor, as the budget officer, is responsible for preparing and presenting to the Board a tentative budget that is in conformance with all relevant statutes. The Town hired an accounting firm (Firm) to perform some of the Supervisor's financial duties. Specifically, the Firm maintains the Town's accounting records, prepares and processes payroll and disbursement checks, prepares bank reconciliations, and provides monthly and annual financial reports to the Board, such as budget status reports.

Objective

The objective of our audit was to examine the oversight and management of fiscal operations. Our audit addressed the following related question:

- Did the Board provide the required oversight of financial operations?

Scope and Methodology

We examined the Town's fiscal oversight for the period January 1, 2009 to July 28, 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. Except as

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

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.

Fiscal Oversight

The Board is responsible for effective financial planning and management (fiscal oversight) of the Town. Board members are the Town's fiscal stewards who are responsible for directing and overseeing the Town's financial activities. The Supervisor is responsible for maintaining complete and accurate financial records and providing access to these records to other members of the Board and to the general public. Board members need accurate financial records to make informed decisions when reviewing the annual budget, monitoring the budget and the Town's financial health throughout the year, and ensuring compliance with relevant laws and policies. The Town has contracted with the Firm to perform some of the Supervisor's financial duties and should have a written contract with the Firm outlining the services the Firm will perform. Further, it is important that the Supervisor oversees the work of the Firm. The Board is also required to conduct an annual audit of the Town's financial records and to enforce its procurement policies.

The Board did not fulfill its fiscal oversight responsibilities. The Town does not have a contractual agreement with the Firm performing financial services for the Town and the Supervisor does not appropriately monitor the Firm. The Board did not perform an annual audit of Town records and reports, as required by law. In addition, the Board does not properly monitor compliance with its procurement policy. We also found that Town officials did not properly budget or account for revenues in the town-wide and town-outside-village funds, as required. As a result, the fund balance of the Town's general fund significantly decreased while the combined fund balance of the general fund town-outside-village and highway town-outside-village funds became excessive. The lack of oversight of the Town's financial activities by the Board and the Supervisor increases the risk that errors and irregularities could occur and not be detected or corrected in a timely manner.

Supervisor's Duties

The Town's financial data must be complete, accurate and up-to-date to be relevant and useful for managing Town operations. As the Town's CFO, the Supervisor is responsible for receiving, disbursing, and safeguarding cash and maintaining a record of such cash transactions. If the Board contracts with an outside firm to perform some of the Supervisor's financial duties, it should have a written contract in place that outlines the services to be performed and the compensation to be paid. Further, it is important that the Supervisor oversees such a firm to ensure that it is performing the agreed upon duties effectively.

The Supervisor does not appropriately monitor those performing some of his financial duties. The Town does not have a written contract with the Firm performing accounting duties and the Supervisor does not have adequate monitoring procedures in place to review the Firm's work. Further, the Firm prepares and prints Town checks, prepares payroll direct deposits, files the Town's payroll reports with government agencies, makes electronic fund transfers to government agencies from the Town's payroll bank account, and prepares bank reconciliations and all financial reporting with little or no oversight by the Supervisor.

Due to these weaknesses, we reviewed the payroll and associated withholdings for the fourth quarter of 2010 and found no material discrepancies. Although we found the accounting records to be accurate and complete, the absence of a written contract between the Town and the Firm weakens the Town's ability to ensure that the Firm carries out all the expected financial duties and the Supervisor's ability to adequately oversee the Firm's performance of his financial duties. As a result, there is an increased risk that errors or irregularities could occur in Town records or payments and not be detected or corrected.

Annual Audit

Town Law provides that all Town officers or employees who receive or disburse moneys during the year must account for such transactions and present their books and records to the Board by January 20th of the following year. In accordance with Town Law, the Board must then audit, or cause to be audited, such records and reports. The Board must record the results of this audit in the Board meeting minutes. This annual review provides an added measure of assurance that the financial records and reports contain reliable information on which to base management decisions and gives the Board the opportunity to monitor the Town's fiscal procedures.

Although the Board minutes indicate the Town Clerk provided her 2009 and 2010 books and records for audit, the Board has not audited, or caused to be audited, the financial records of the Supervisor or Town Clerk for 2009 and 2010, as required.

The Board's failure to perform an annual audit diminishes its ability to effectively monitor the Town's financial operations and could result in discrepancies occurring and remaining undetected and uncorrected.

Purchasing Process

An effective system of internal controls over purchasing includes policies and procedures to help ensure that the Town is using its resources effectively and complying with applicable laws and regulations. The Board is responsible for developing and enforcing

policies and procedures to ensure that taxpayer dollars are spent in the most efficient manner. An effective procurement process provides guidance to Town personnel in obtaining services, supplies, and equipment of the right quality and quantity, at the best price, and in compliance with applicable legal requirements and Town policies.

The Board does not properly monitor compliance with its procurement policy. The Board adopted a procurement policy on April 12, 2010, that outlines the number of quotes to obtain when a purchase does not require competitive bidding.¹ We tested 10 purchases totaling \$4,228 that were not required to be bid to determine if the purchases were in compliance with the Town's procurement policy. All 10 purchases lacked the documentation to substantiate that the required quotes were obtained. As a result, the Town may have paid more than necessary for goods and services purchased.

When Town officials do not comply with the Town's procurement policies, the Board does not have adequate assurance that goods and services of the best quality will be acquired at the lowest possible cost.

Budgeting

The Town's main operating funds have tax bases that encompass the whole Town, including the Village, and are referred to as the general and highway town-wide funds. The town also maintains town-outside-village and highway town-outside-village funds that have tax bases that encompass only the part of the Town outside of the Village. Because the Village is located within the Town, the Town must maintain separate funds to account for transactions that are required by law to be accounted for as town-outside-village activities (for example, highway maintenance, planning and zoning). Expenditures must be budgeted in the town-wide funds unless statute requires or permits them to be accounted for in town-outside-village funds.

Town Law authorizes counties to voluntarily share sales tax revenues with certain local governments. When counties distribute sales tax, the local government must appropriately budget and account for those revenues. If a town includes a village, the village can elect to receive a share of revenues allocated to the town. When a town and a village within the town both receive sales tax revenues, the town must use its portion of sales tax revenues to reduce real property taxes for the town-outside-village funds.

¹ One verbal quote for purchases less than \$100, two verbal quotes for purchases between \$100 and \$500, two written quotes for purchase between \$500 and \$1,000, and three written quotes for purchase between \$1,000 and \$9,999

Town officials did not properly budget or account for revenues in the town-wide and town-outside-village funds, as required. Beginning in 2009, the Town received sales tax revenues from the County, and the Village elected to receive its proportionate share of these revenues directly. For the years 2009 and 2010, the Town received \$450,000 in sales tax revenue. However, the Supervisor incorrectly budgeted the sales tax revenues in the general and highway town-wide funds. Consequently, the sales tax revenues were not used to reduce real property taxes in the town-outside-village funds.

During 2010, the Town corrected the inequity by making inter-fund transfers from the general and highway town-wide funds to the general town-outside-village and highway town-outside-village funds. The correction resulted in the general fund's fund balance significantly decreasing to \$24,327, an amount which is only six percent of the ensuing year's appropriations. The combined fund balance of the town-outside-village and highway town-outside-village funds after the transfer was \$640,479, which was 149 percent of the ensuing year's appropriations for these funds. Although the Board reduced Town residents' real property tax levies to zero and appropriated fund balance in the two town-outside-village funds for 2011, this action only reduced the combined fund balance of these funds to \$635,402. The Board has limited options for reducing the excessive fund balance in these town-outside-village funds. Once the real property taxes for the town outside-village funds are reduced to zero, the remaining sales and use taxes may be used for (a) the reduction of general town-wide taxes, (b) the reduction of county taxes levied in the town-outside-village areas, (c) additional town-outside-village activities, or (d) any combination thereof. In 2012, the Board budgeted to reduce the combined fund balance in the town-outside-village funds by \$246,772, rather than levy any real property taxes and requested only \$60,000 from the county for sales tax revenues with the balance of the revenues going to reduce the county tax levy in the town-outside village areas.

Recommendations

1. The Board should establish a written contract with the Firm that outlines the services to be provided and the compensation to be paid.
2. The Supervisor should oversee the work that the Firm is performing on his behalf and make all disbursements of Town monies.
3. The Board should perform, or provide for, an annual audit of records and reports of all Town officers and employees receiving or disbursing money on behalf of the Town.

4. The Board and Supervisor should regularly monitor purchasing by Town officials and employees to ensure compliance with the requirements set forth in the Town's procurement policy and the law.
5. The Board should continue to use the limited available options for reducing the excessive fund balance in the town-outside-village funds.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages. The Town's response letter refers to page numbers that appeared in the draft report. The page numbers have changed during the formatting of this final report.

Gordon Sick
Jody Tonkery
Virginia Huber
John Schubmehl

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September 19, 2012

Edward V. Grant, Jr., Chief Examiner
The Powers Building
16 West Main Street, Suite 522
Rochester, NY 14614-1608

Dear Mr. Grant:

This is my response and corrective action plan. An audit is a helpful mechanism to help an entity improve its ongoing operations. Most importantly, it provides the public with the assurance that the records are accurate and that no fraud has occurred. Secondly, as has become prominent in the past few years, it tries to identify areas of risk that the town might be exposed to.

In your audit, you have decided to express the primary purpose of the audit on page seven of your text "we found the accounting records to be accurate and complete". If you had found error in the handling of the finances or fraud, the focus of your audit would have been in that area. Since you found the records accurate, you focused your audit on risk. I summarize your risk assessment as follows:

See
Note 1
Page 13

- 1) Lack of my oversight due to lack of contract with our outside firm and my lack of control thereof;
- 2) My failure to present my books to my Board for audit;
- 3) Noncompliance to our procurement policy;
- 4) There was an error in the handling of sales tax
- 5) Excessive fund balance needs to be used.

In response I state:

- 1) We have secured a contract with our outside firm. My oversight has been the following:
 - A) I sign all checks that come from abstracts, contracts and prepayments, all approved by myself and my Board;
 - B) I make all deposits;
 - C) I review all bank reconciliations;
 - D) I review all monthly reports for accuracy
 - E) I approve all payroll;
 - F) I am in contact with the firm's office at least once a week
 - G) There is no aspect of my town finances that I do not have my hand in
 - H) In addition, our payroll checks are now printed here at our Town Hall, and I now make all direct deposits to employee bank accounts. This was previously done by our accounting firm.

I would appreciate any further guidelines you might give me that other acceptable supervisors are doing that would bring me into compliance.

2) This February I will present my 2012 books to the Town Board for audit.

3) We realized that our procurement policy, as written, put unrealistic restrictions on our department heads. We changed our procurement policy and are able to monitor more effectively our compliance to it.

4) We corrected the error in sales tax budgeting.

5) We are using fund balance for tax relief in a responsible way.

Those are the simple facts surrounding the audit. Now let's see the tone set by the summary paragraph on page six.

"The board did not fulfill its fiscal oversight." Message sent (Irresponsible board)

"Supervisor does not monitor firm." Message sent (Irresponsible board)

"Does not monitor procurement policy" (10 items totaling \$4,228). Message sent (Board is allowing rampant spending)

"Did not budget revenues in town-wide and outside village properly." Message sent (All transactions are wrong)

"Risk that irregularities cannot be detected." Message sent (Irresponsible Board)

Your focus on risk rather than accuracy disturbs me. I would ask that the page 6 summary be changed to reflect the accuracy of our books as primary and the risk factors as secondary. I would also like it written as more factual and less indicative of incompetence of myself and my Board.

In summary, we as a Board appreciate the time and effort put forth by your auditors and the manner in which they conducted themselves. We feel that we have addressed all issues brought to our attention and intend to move forward and continue to make improvements as we become aware of the need.

Please consider this our response to your report.

Respectfully submitted,

George W. Ott
Supervisor
Town of Wayland

APPENDIX B

OSC COMMENT ON THE TOWN'S RESPONSE

Note 1

Our overall goal was to assess the adequacy of internal controls to ensure financial activity is properly recorded and Town monies are safeguarded. As a result, we performed an initial assessment of internal controls and determined where weaknesses existed and selected those areas most at risk for audit. Our audit identifies a variety of internal control weaknesses that need to be improved. Although we found the accounting records to be currently accurate and complete, the Town needs to improve its controls, as it indicates it will, to help ensure this will continue.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of internal controls to ensure financial activity is properly recorded and Town monies are safeguarded. To accomplish this, we performed an 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 internal controls over the following areas: financial condition, board oversight, cash receipts and disbursements, Supervisor's records and reports, purchasing and claims processing, payroll and personal services, information technology, and revenues and cash receipts in the various Town Departments.

During our initial assessment, we interviewed Town officials, performed limited tests of transactions, and reviewed pertinent documents such as Town policies and procedures manuals, 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 inherent control risks. We then decided upon the reported objectives and scope by selecting for audit those areas most at risk. We selected fiscal oversight for further testing for the period January 1, 2009 through July 28, 2011.

To assess the fiscal oversight, we examined available records and reports for the stated scope period. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Town officials and reviewed Board minutes and the Town's policies and procedures.
- We reviewed the 2009, 2010, 2011 and 2012 budgets. We reviewed the Town's four year financial comparison for 2007 through 2010 to determine if there were any negative/excessive fund balances reported, the amount of appropriated fund balance budgeted and actually used, and operating results.
- We interviewed the Supervisor and staff at the Firm to obtain an understanding of the services they provide.
- We reviewed the payroll records, authorized employee and Town official salaries, and payroll input provided to the Firm for the fourth quarter of 2010. We also reviewed the Trust and Agency checking account as of December 31, 2009 and December 31, 2010. Furthermore, we traced W-2s to payroll registers for accuracy, by selecting every 5th employee starting with the first employee on the W-3 transmittal and the December 24, 2009 payroll check register.
- We reviewed Board minutes and interviewed Board members and Town officials to determine if the Board conducted an annual audit of all Town officers and employees that receive or disburse monies.
- We selected a sample of 30 purchases, totaling \$84,918, by selecting every eighteenth claim starting with the first claim of each monthly abstract, to determine compliance with the Town's

procurement policy. We did not include purchases for utilities or services in our sample.

- We obtained a vendor report from the Firm and alphabetized all vendors whose purchases were over \$10,000 for 2009 and 2010. For 2009, we selected every other vendor, prior to determining that one vendor on the list was for professional services, not subject to bid. For 2010, we selected every other vendor over \$20,000 starting with the first vendor over \$20,000 prior to elimination of a vendor that was not subject to the competitive bid statute. We selected these vendors to test for compliance with competitive bidding laws. We then reviewed County and State contracts and compared selected vouchers to them to determine if the Town used the County or State contract for purchases. If we found they used the State or County contract we determined if the vendor charged the correct rate.

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

APPENDIX D

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