



Village of Sherburne

Justice Court

Report of Examination

Period Covered:

March 1, 2010 — July 27, 2011

2011M-248



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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2012

Dear Village 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 Justice or Village 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 Village of Sherburne Justice Court. 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 Village of Sherburne (Village) is located in Chenango County and is governed by a Village Board (Board) consisting of a Mayor and four Trustees. The Village provides a variety of services to its residents including the operation of a Justice Court (Court) with one Justice, an Acting Justice and one Court clerk. The Justice was elected and took office in March of 2006, the Acting Justice had minimal activity during our audit period and the Court clerk has been in that position since 2006.

The Court oversees vehicle and traffic, criminal, civil, and small claims cases within the Village's jurisdiction. The Justice is responsible for legal matters handled within the Court and administering money collected from fines, bails, surcharges, civil fees, and restitutions. The Court is required to report to OSC's Justice Court Fund (JCF), on a monthly basis, of the Court's financial activities. The Court also is the custodian of bail and restitution payments received and must distribute these funds to the appropriate parties.

Objective

The objective of our audit was to examine the Justice Court operations for the period of March 1, 2010 to July 27, 2011. Our audit addressed the following question:

- Did the Justice ensure that fines collected were deposited timely and properly accounted for?

Scope and Methodology

We examined Justice Court operations for the period March 1, 2010 to July 27, 2011. Since the Acting Justice had minimal activity, we only audited the Justice.

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 Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Village officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comment on the issue raised in the Village's response letter.

The Board has responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk-Treasurer's office.

Justice Court Operations

The Justice is responsible for performing his duties correctly, and for overseeing the duties assigned to the Court clerk. The Justice must ensure that all fines collected are deposited timely and accounted for properly, receipts are issued for all moneys collected for fine payments and bails, and that any gaps in the sequence of receipts are accounted for. All moneys collected must be deposited within 72 hours of receipt,¹ recorded in the financial system, and reported to the Justice Court Fund (JCF). The court software should maintain logs recording the user, time and date and type of activity recorded, such as case deletions. Annually, the Justice is required to present his dockets and financial records to the Board for their audit.

The Justice could not demonstrate that six receipts totaling more than \$900 were deposited into the Court bank account. Four of these receipts were not in the computerized court financial system, and five of the receipts were not reported to JCF. In addition, we found an extra \$125 that was deposited that we could not trace to a specific case. Moreover, 51 payments totaling more than \$7,500 were not deposited until more than three days, and up to 14 days, after they were collected. Finally, the Justice was missing 21 receipts in the sequence of receipts we tested in addition to two large gaps in the number sequence, which could indicate that payments with an undetermined value have been received, but not deposited or reported to JCF. We reviewed these discrepancies with the Mayor and Justice but the Justice could not provide any explanations about the potentially missing moneys.

These exceptions occurred because the duties performed by the Justice and Court clerk are not adequately segregated and the oversight of these duties is not sufficient. For example, the Justice collects and records most of the fine payments received, deposits these funds, and generates all reports submitted to JCF. In addition, the Justice and Court clerk both have rights to access all applications of the court software; thereby allowing them both to perform all duties such as downloading traffic violation tickets into to court software, posting payments of fines, suspending driver licenses, and entering dispositions of cases. Furthermore, the Justice does not approve or maintain support for any changes or deletions made to the information recorded in the court software. As a result, case records can be deleted from the court software without any evidence to show what cases were deleted or by whom.

¹ New York Codes Rules and Regulations require all moneys to be deposited within 72 hours of collection exclusive of Sundays and holidays.

Although the Board certifies that it performs annual audits, and the Clerk-Treasurer compares bank deposits to monthly reports, these steps do not serve as strong mitigating controls for the weaknesses noted. These steps may verify that moneys deposited are reported, but there is no verification that all moneys received are deposited and recorded, all disbursements are recorded and for appropriate court purposes, and that all activity is properly reflected in the Justice's monthly reports to JCF.

Although our testing² did not disclose any irregularities, the risk is far worse than these conditions may illustrate. Due to the lack of segregation of duties and oversight, case records could be altered to reduce the known payments to be accounted for so that moneys could be received, but not record or deposited without detection.

Recommendations

1. The Justice should assign duties and rights to access the court software so that no one person can collect and record fine payments, deposit those funds and generate reports to JCF. In addition, no one person should download traffic violation tickets, post payments of fines, suspend driver licenses and enter case dispositions, without sufficient oversight.
2. The Justice should approve and maintain support for all changes and deletions made to the information recorded in the court software.
3. The Board, as part of their annual audit, should verify that all moneys received are deposited and recorded, and that all activity is properly reflected in the monthly reports to JCF.

² We performed accountabilities, and reviewed potential suspensions, reductions, dismissals and bails returned. See Appendix C.

APPENDIX A
RESPONSES FROM LOCAL OFFICIALS

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

VILLAGE OF SHERBURNE

Municipal Office – 15 West State Street – PO Box 704 - Sherburne, NY 13460

Phone: 607-674-2300 – Fax 607-674-4149

TDD 1-800-662-1220

e-mail: sherbvil@frontiernet.net

William Acee
MAYOR

Robert Smith
Edward La Corte
Christopher Tomaselli
Elena Casscles
TRUSTEES

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ELECTRIC SYSTEM
WATER SYSTEM
WASTE WATER SYSTEM

Ione Rogers
CLERK-TREASURER
674-2206

Thomas Turner
SUPT. PUBLIC WORKS
674-2200

Travis DuBois
INTERIM ELECTRIC SUPT.
674-2202

James Taylor
ATTORNEY



Original Pageant of Bands Annually – First Saturday in June

June 12, 2012

State Comptroller's Office

[REDACTED]
NYS Office Building
44 Hawley Street Room 1702
Binghamton NY 13901-4417

Dear [REDACTED]

After meeting and discussing the audit, I feel that I must respond by stating that the Justice Court records and Village records are separate. In the past Justices' were uncooperative when it came to working with the Village Board and claimed judicial status would not allow us to audit or reconcile their records in any way.

See
Note 1
Page 10

Therefore, due to the separateness of Court and Village, I feel that there is some unfairness to the Village with respect to the issues raised by the audit. However, I do feel that your corrective and instructive suggestions were most helpful and we will institute them in the future. I do think that the current Justice is working hard to fix problems and that the court will be a better run in the future.

Thank you for your assistance.

Very truly yours,

William Acee, Mayor

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**Sherburne Village Court
P.O. Box 860
1 Canal Street
Sherburne, New York 13460**

Hon. James W. Peptis
Sherburne Village Justice

607-647-9086
Fax 607-647-4827

State Comptrollers Office
New York State Office Building
44 Hawley Street Room 1702
Binghamton NY 13901-4417

June 2, 2012

Dear [REDACTED]

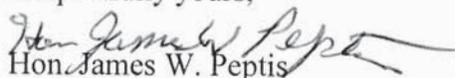
I have reviewed the findings of the audit which was submitted to me. I cannot dispute the information included in the audit report. After the initial meeting we had with you I submitted everything that I could locate, which you advised was missing from the court records.

I appreciate the work that you have put into the audit. The information that I received has been a great help in my understanding of how the court records should be kept. I will work at perfecting the process to maintain the integrity of the justice court system and the Sherburne Village Justice Court.

After meeting with you the first time I learned a great deal of how to improve the record keeping for the justice court. We have already started implementing corrective procedures. One example; a daily deposit report is generated for every date that money is entered into the Courtroom Program and kept in a binder with all of the financial reports.

Thank you very much for your assistance in this matter to streamline the compliance process for this court.

Respectfully yours,


Hon. James W. Peptis
Village of Sherburne Justice

APPENDIX B

OSC COMMENT ON THE VILLAGE'S RESPONSE

Note 1

An audit of the financial records of the Village Court in no way involves a review of judicial discretion, and the Justices are required by law to present their financial books and records for examination annually. As individuals who are responsible for upholding the law, they should adhere to their own legal requirements.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

As part of our audit, we obtained an understanding of controls put in place by the Justice to safeguard Court records and the processes involved with processing fine, bail, and restitution payments. We obtained our understanding by inquiry, observation, and inspection of documents and records. We performed the following procedures:

- We reviewed board minutes to determine when the Justice was elected and the Court clerk was appointed.
- We reviewed the Justice's records (including dockets, case files, press-numbered and computer generated receipts, canceled checks and bank statements) to verify that reports were generated and retained that showed type of payments (i.e., cash vs. money orders) received.
- We reviewed all duplicate copies of press-numbered receipts determine if there were any gaps in number sequences. We then interviewed the Justice to determine if there were appropriate and supported reasons for such gaps.
- We traced all moneys collected as recorded on press-numbered receipts to the bank statements to determine if deposits were done within the 72 hours.
- We traced all moneys collected as recorded on press-numbered receipts to reports generated by the court software and to JCF monthly reports to ensure that all moneys collected were recorded and reported.
- We selected 10 closed paper file cases by opening each drawer where files were kept and selecting the first closed case in the drawer. We traced the fine payment in the files to the JCF report and court software generated daily deposit report to determine if payments were recorded and deposited timely and accurately.
- We selected 10 fine payments as reported on JCF reports by selecting the first payment on each of the reports from March to August 2010 and March to June 2011. We traced these reported payments to the court software generated daily deposit reports and to the bank statements to determine if payments were recorded and deposited timely and accurately.
- We obtained a backup of court software to determine if any cases could be identified as having been deleted. We then reviewed paper files for each type of deletion identified to determine if the reason for each deletion was appropriate and supported.
- We performed an accountability test for the Justice's fine bank accounts by comparing the bank statement balance for June 2011 to known liabilities, such as the amounts reported on the JCF report.

- We performed an accountability test for the Justice's bail account by comparing the June 2011 balance in the account per the bank statement to the list of outstanding bails per the court software.
- We selected 14 cases out of all 32 by selecting every seventh case beginning with Case 1 that were reported on the June 2011 Department of Motor Vehicle's 60 day report and reviewed paper case files and/or discussed with Court clerk to determine why licenses had not been suspended.
- We reviewed 13 tickets that had been reduced per the JCF monthly report and reviewed paper case files to determine the reasons for the reductions and if the Justice had approved the reductions. We selected our sample by selecting the first reduced case as reported on the JCF reports for 13 months within our audit period. We also sent confirmation letters to each defendant to determine if their records agreed with the Justice's reporting.
- We reviewed paper case files of 15 dismissed cases to determine if the Justice approved the dismissals. We selected our sample by selecting the first dismissed case reported on the JCF report in each completed month of our audit period. We also sent confirmation letters to each defendant to determine if their records agreed to the Justice's reporting.
- We traced all checks that cleared the bail bank account during our audit period to court software generated reports to ensure that bail being returned was previously collected by the Court.
- We inquired of the Justice and Mayor relating to receipts that were not deposited as well as missing receipts in the sequence used by the Court personnel.

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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