



# Town of Brasher

## Spending of Casino Compact Money

### Report of Examination

Period Covered:

January 1, 2010 — April 30, 2012

2013M-131



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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

July 2013

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 Brasher, entitled Spending of Casino Compact Money. 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 Brasher (Town) is located in St. Lawrence County and has approximately 2,500 residents. The Town Board (Board), which is the Town's legislative body, includes the Town Supervisor (Supervisor) and four Board members. The Board is responsible for overseeing the Town's operations and finances. The Supervisor, as chief fiscal officer, is responsible for the Town's daily financial operations including receiving and disbursing Town moneys, maintaining accounting records, and providing financial reports to the Board. The Supervisor appointed a bookkeeper<sup>1</sup> to assist with financial duties. The Town Clerk (Clerk) is responsible for preparing claims packets and abstracts for Board approval.

The Town provides various services to its residents including maintaining and improving Town roads, snow removal, public improvements, recreation and cultural activities, and general government support. The Town's 2012 budget appropriations were approximately \$2.1 million, funded primarily with real property taxes, revenues from services to other governments, and State aid.

The Town's revenues have been significantly affected in recent fiscal years by an agreement (casino compact) between the St. Regis Mohawk Tribe and the State of New York. Under the casino compact, the State receives a share of slot machine revenues earned at the Akwesane Mohawk Casino and shares these revenues with St. Lawrence and Franklin Counties. St. Lawrence County shares casino compact moneys with the Towns of Brasher and Massena. In total, the Town received more than \$1.7 million of casino compact revenue from May 2007 to February 2012.

## Objective

The objective of our audit was to review the Town's spending of casino compact moneys.<sup>2</sup> Our audit addressed the following related question:

- Did the Town spend casino compact moneys in accordance with approved spending plans and were expenditures adequately supported and recorded?

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<sup>1</sup> The Town had two different bookkeepers during our audit period. The first bookkeeper was employed during 2010 and 2011 and the second bookkeeper was employed beginning in 2012.

<sup>2</sup> We reviewed the compact revenues and expenditures to ascertain whether they were received and expended in accordance with approved spending plans. We made no assessment as to whether or not the compact revenues received and disbursed by the Town are subject to the NYS Constitution, Article VIII, Section 1.

**Scope and  
Methodology**

We examined the Town’s spending of casino compact moneys for the period January 1, 2010 to April 30, 2012. We extended the scope of our audit back to 2006 for spending plans and to May 2007 for casino compact revenues. In some instances, we reported on transactions and activities outside of our audit period because we considered it necessary and relevant to this audit.

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 B 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. Town officials agreed with our findings and recommendations.

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 Clerk’s office.

## Casino Compact Moneys

The St. Regis Mohawk Tribe (Tribe) and the State of New York entered into an agreement that authorized the Tribe to install and operate video lottery gaming devices (slot machines). The Tribe contributes a percentage of net revenues from slot machines to the State based on schedules in the agreement. The State retains 75 percent and distributes 25 percent equally to St. Lawrence and Franklin Counties. The counties distribute 50 percent of their shares to the affected towns within the counties, as specified in the agreement. To receive casino compact revenues, the towns must first submit spending plans to Empire State Development (ESD), New York’s chief economic development agency. ESD reviews the plans, recommends changes when needed, and verbally approves the spending plans. ESD notifies the State Division of Budget (DOB) that the plan is sufficient and recommends that the State disburse casino compact revenues to the counties for distribution to the towns for funding their spending plans.

As a result of the casino compact, the Town received over \$1.7 million in revenues over the past several years (Table 1). The casino compact revenues have resulted in significant infrastructure improvements and other services for the Town that likely would have been funded by property taxes or not provided at all. According to the Supervisor, the Town has not received any compact money for years 2010, 2011 or 2012 because of a dispute between the Tribe and New York State. The Tribe is withholding compact revenue because of an exclusivity dispute over slot machine operations.

<b>Table 1: Casino Revenues Received by the Town (Spending Plan Years 2005-06 Through 2008-09)</b>		
<b>Spending Plan Year</b>	<b>Amount</b>	<b>Received by the Town</b>
4/1/05 – 3/31/06	\$182,817.75	May 2007
4/1/06 – 3/31/07	\$287,500.00	June 2008
4/1/07 – 3/31/08	\$631,254.00	November 2009
4/1/08 – 3/31/09	\$555,613.00	April 2011
Settlement of prior years <sup>(a)</sup>	\$83,602.00	February 2012
<b>Total</b>	<b>\$1,740,786.75<sup>(b)</sup></b>	

<sup>(a)</sup> Settlement of prior years is due to the State reconciling the casino compact revenue amounts and determining that additional money was due to the counties and towns. The counties forwarded the towns their portions.

<sup>(b)</sup> We confirmed the revenues as listed in the table with St. Lawrence County and traced the receipts to Town bank statements.

The Board should ensure that all moneys expended are in accordance with the related spending plans and that all expenditures are authorized and adequately supported. The Board should also authorize claims for expenditures prior to disbursement. Town officials should ensure that records are maintained to identify compact revenues, disbursements related to the spending plans, and planned uses of remaining moneys in comparison to spending plans. Officials should also monitor the status of spending plans and approved uses of casino compact revenues.

The Board generally expended casino compact revenue during our audit period in accordance with the nature of the approved spending plans. However, expenditures totaling \$38,322 were not adequately supported and a payment of \$36,358 was not Board-authorized. Further, the records of moneys disbursed did not always distinguish expenditures by spending plan and intended uses.

By resolution, the Board approved and adopted its spending plans submitted to ESD for all of the compact revenues disbursed to the Town for 2006 through 2009 and the settlement in 2012, except for the 2008 spending plan, which lacked formal Board approval by resolution. The Board submitted a letter plan to ESD for the majority of the 2008 compact revenues, totaling \$525,000 of the \$631,254 received, but officials were unable to locate the Board's formal approval and adoption of the plan. The spending plans provide a summary of the intended uses of casino compact revenues, to include, but not limited to, tourism, economic development, infrastructure improvements, and gambling addiction education.

The Town's bookkeepers maintained ledgers in 2010 and 2012 for the expenditure of casino compact revenues received, and the Clerk maintained a ledger as well for 2010 and 2011. Although the bookkeeper's ledger in 2010 indicated revenues received and the Clerk's ledgers indicated intended uses, none of the records completely identified revenues received by spending plan, disbursements and uses by spending plan, or planned uses for unexpended balances. For example, if moneys expended in 2010 were for uses in the approved spending plan for 2008 compact revenue received, there was no indication of this in the records. Therefore, the records would not allow officials to easily compare disbursements with the respective spending plans and identify the proposed use of any remaining funds. The Supervisor told us he is aware of the planned uses when spending plans are approved and adopted by the Board, but acknowledged that the records do not reflect spending by plan and use and provide no balances of unexpended moneys by spending plan.

Since the records did not indicate which spending plan the expenditures were related to, we compared casino compact moneys disbursed, totaling \$376,769 from January 1, 2010, to April 30, 2012, to the Board-approved spending plans<sup>3</sup> to determine if the payments were made in accordance with the nature of the spending plans and if the expenditures were authorized and adequately supported. Although we were not able to tell which moneys were expended for which spending plan years, we did determine that the expenditures were generally consistent with plan uses, such as \$190,077 for roads, \$49,575 for tourism, and \$42,000 for fire protection and rescue.

The Board authorizes expenditures for disbursements by reviewing vouchers and supporting documentation (invoices), signing the vouchers, and approving abstracts (lists of claims to be paid) that include the related vouchers. We found one disbursement of \$36,358 for the purchase of land in October 2010 was made without prior Board authorization.<sup>4</sup> However, the Supervisor told us the Board was aware of the purchase to be made.<sup>5</sup> We also found multiple disbursements totaling \$28,322 were authorized by the Board for payment, but lacked an invoice, contract, or receipt as support for the voucher and/or payment. These disbursements included \$13,000 paid to a foundation for a tourism project supporting fishing in St. Lawrence County and \$11,806 in costs associated with Tri-Town festivals (seasonal events held annually with neighboring municipalities).<sup>6</sup> Another \$10,000 was authorized for payment to a local rescue squad, but the disbursement exceeded the annual contracted amount for services totaling \$27,543 and there was no other support provided for the payment. Therefore, without adequate support or authorization, a payment could be made that is not related to an approved use in a spending plan.

Although the Supervisor did not maintain the records in a way that would enable Town officials to compare expenditures with the respective spending plans and to easily identify what uses or purposes the remaining moneys are earmarked for, the Supervisor and Board did identify a remaining balance of unexpended moneys totaling \$884,330 as of March 2012, and the Board adopted new resolutions for the planned uses of these remaining moneys.<sup>7</sup> The planned uses outlined in the resolutions are consistent with prior spending plans approved by the Board and ESD, including \$585,500 for a new Town

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<sup>3</sup> As indicated in Table 1

<sup>4</sup> The Board adopted a resolution after our audit period, on April 10, 2013, to formally authorize the purchase of the land.

<sup>5</sup> According to Board minutes, the proposed purchase of the land was discussed at Board meetings from May 2010 to September 2011.

<sup>6</sup> \$6,000 for the Tri-Town Winter Carnival and \$5,806 of a total \$12,000 in costs for the Tri-Town Summer Festival

<sup>7</sup> A resolution on February 9, 2012, for \$800,728 and a resolution on March 15, 2012, for \$83,602



garage, \$100,000 for a revolving loan fund, \$40,000 for the Helena Water District, and \$47,000 for tourism.

## **Recommendations**

1. The Board should formally authorize all ESD-approved spending plans.
2. The Supervisor should ensure that records for casino compact moneys identify revenues received by spending plan, disbursements and uses against the respective spending plans, and the proposed purpose of any remaining funds.
3. The Board should ensure all that expenditures of casino compact moneys are authorized and adequately supported.
4. The Board should monitor the status of spending plans and uses on a regular basis.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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

**WILLIAM DEMO**  
Councilman  
Brasher Falls, NY 13613  
**MARGARET M. BURNS**  
Councilwoman  
Helena, NY 13649  
**JOHN BURNS**  
Town Justice  
Brasher Falls, NY 13613  
**ELLEN M. FUKES**  
Town Clerk  
Brasher Falls, NY 13613

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**MARK PEETS**  
Councilman  
Brasher Falls, NY 13613  
**JERRY MAHONEY**  
Town Justice  
Helena, NY 13649  
**LARRY HEWLETT**  
Superintendent of Highways  
Helena, NY 13649

July 11, 2013



Office of the State Comptroller  
State Office Bldg. Room #409  
333 E. Washington Street  
Syracuse, NY 13202-1428

Re: Audit Report 2013M-131

Dear 

The Town of Brasher accepts the audit findings. Thank you for your assistance in this matter.

Very truly yours,

M. James Dawson, Supervisor  
Town of Brasher

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to review the Town's spending of casino compact moneys. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We reviewed Board minutes and documentation and made inquiries of Town officials to obtain an understanding of their processes regarding the casino compact revenues, spending plans, and disbursement records.
- We contacted an official from ESD to further understand the approval process of spending plans.
- We contacted the St. Lawrence County Treasurer to obtain a listing of casino compact revenues paid to the Town. We reviewed the Town's bank account to determine casino revenues deposited and the balance as of April 30, 2012.
- We reviewed canceled checks and disbursements recorded in ledgers from January 2010 through April 2012 to determine if spending was in accordance the approved spending plans for 2006-2009, expenditures were recorded by spending plan and use, and the vouchers were authorized and supported. We interviewed Town officials to determine the purpose of expenditures, as necessary. We reviewed supporting documentation for casino compact moneys expended.

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.

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**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Nathalie N. Carey, Assistant Comptroller

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