

Town of Gaines

Town Clerk/Tax Collector

MARCH 2022



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Gaines

Audit Objective

Determine whether the Town of Gaines (Town) Clerk/Tax Collector (Clerk) adequately performed her financial duties.

Key Findings

The Clerk did not adequately perform her financial duties. The Clerk did not:

- Deposit collections in a timely manner.
- Perform bank reconciliations.

The Board also did not perform an annual audit of the Clerk's records, as required by New York State Town Law Section 123.

Key Recommendations

The Clerk should:

- Deposit all collections within the required timeframe.
- Perform bank reconciliations to help ensure all money is properly accounted for.

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 an issue raised in the Town's response.

Background

The Town is located in Orleans County (County) and is governed by an elected five-member Town Board (Board) including the Town Supervisor (Supervisor). The Board handles the general management of operations.

The Clerk collects fees for a variety of purposes, including licenses and permits issued, and vital records. She is also responsible for collecting water rents billed quarterly to Town residents and businesses. Generally, all fees received by the Clerk are the property of the Town, County or State and must be promptly remitted to the appropriate parties.

The Clerk, who also serves as the Tax Collector, is also responsible for collecting and remitting real property taxes to the Supervisor and County Treasurer (Treasurer).

Quick Facts

2021 Real Property Taxes

County	\$1,439,449
Town	624,357
Total	\$2,063,806

2020 Water Rents \$341,015

2020 Clerk Fees \$15,123

Audit Period

June 1, 2020 – August 12, 2021

Town Clerk/Tax Collector

How Should a Clerk Properly Account for and Remit Collections?

A clerk must properly account for all transactions by:

- Promptly and accurately recording the daily amounts collected in a cash receipts journal,
- Depositing collections intact, (in the same amount and form - cash or check - as received),
- Remitting money to the appropriate parties, and
- Accurately reporting amounts collected to the board.

New York State Town Law (Town Law) Section 35 requires the clerk, as tax collector, to deposit all real property taxes collected within 24 hours of receipt and remit amounts collected, including any interest and penalties, to the supervisor at least once a week. Once the clerk collects the town's tax levy in full, tax collections must be remitted to the treasurer no later than the 15th day of the following month. At the end of the collection period, the clerk is required to settle with the treasurer and must account for:

- The taxes collected,
- Amounts remitted to the supervisor and treasurer,
- Any adjustments to the tax roll, and
- The taxes that remain unpaid.

Town Law Section 30 also requires the clerk to deposit all fees collected within three business days after total collections exceed \$250, and Town Law Section 27 requires the clerk to remit such money to the supervisor and other agencies by the 15th day of the following month. The clerk should also prepare accurate bank reconciliations for the accounts that she is responsible for and provide them to the board periodically for review. Additionally, the clerk should prepare bank reconciliations monthly, and any differences between net bank balances and general ledger cash accounts should be researched and explained. Town Law Section 123 requires the clerk to annually provide her records to the board to be audited.

The Clerk Did Not Always Deposit or Remit Real Property Tax Collections in a Timely Manner

We reviewed all 1,191 recorded tax collections for the 2021 tax year, totaling approximately \$2 million. We found that while the Clerk recorded and deposited all tax collections intact, collections were not always deposited within 24 hours. In addition, one remittance, totaling \$100,000 to the Supervisor, was not made in a timely manner.

Of the 1,191 tax collections, the Clerk did not deposit 243 (20 percent), totaling \$463,556, within 24 hours of collection. For all tax collections, the average time between collection and deposit was two days, with the longest (a collection of \$1,486) deposited 16 days after receipt.

We found that in general, tax collections in the month of January were deposited in a timely manner, with an average of one day between collection and deposit. However, the deposits in February averaged two days until deposit, and in March and April collections were deposited an average of four days after receipt.

The Clerk told us that she makes deposits several times per week during the tax collection season, especially in January when the majority of revenue is collected. However, as the season goes on and there are fewer collections in February, March and April, she does not make deposits as frequently. She typically waits until she has collected approximately \$200 in currency before making a deposit.

We also reviewed all real property tax collection remittances the Clerk made to the Supervisor and Treasurer and found that they were generally made in a timely manner, with the exception of one remittance to the Supervisor of \$100,000.

The Clerk told us that this remittance was late by mistake. We found the Clerk made payments to the Supervisor at least weekly in January. However, when she made the first payment to the Treasurer, on January 28, 2021, \$100,000 was still owed to the Town. The Clerk did not remit this \$100,000 until April 14, 2021, although sufficient collections had been received by February 3, 2021, to completely remit the total amount due to the Town.

Since the Clerk does not consistently report total taxes collected and remitted to the Board, she told us that she thought the Town's levy had been satisfied for the year when she made the first remittance to the Treasurer. She told us she realized the error when the bookkeeper informed her in March that the Town was still owed \$100,000 for the tax levy. Once she confirmed the amounts remitted, she told us she requested that the Treasurer refund the Town approximately \$80,000, which the Town received on April 14, 2021. This \$80,000, in addition to \$20,000 she collected, was paid to the Supervisor to satisfy the Town's tax levy.

When deposits and remittances are not made in a timely manner, there is an increased risk of mistakes being made or money being lost or misappropriated without detection. Additionally, the longer money remains unremitted, the less cash flow Town officials have to effectively fund operations. If the Clerk had consistently reported taxes collected and remitted to the Board, this error may have been detected earlier.

The Clerk Did Not Deposit Clerk Fees and Water Rents Collected in a Timely Manner

We reviewed a sample of 144 Clerk fees totaling \$22,007 and found that all 144 were recorded properly. In addition, we reviewed all Clerk fees collected between June 1, 2020 and May 19, 2021, comprising 16 deposits with 457 transactions totaling \$17,575. Although all fees were deposited intact, the Clerk did not deposit Clerk fees in a timely manner. We reviewed the 16 deposits the Clerk made during this time and found she made deposits between six and 30 days after she had collected \$250. The average time was 18 days until deposit.

We also found the water rents collected by the Clerk were not deposited in a timely manner. We reviewed water rents collected by the Clerk for one billing cycle, from October 1, 2020 through December 31, 2020. During this quarter, the Clerk made 13 deposits for 524 water bills paid totaling \$60,682 (these excluded automatic payments and online payments since they are automatically deposited). Eight deposits were not made in a timely manner; once \$250 was collected deposits were made between four and 22 days, with an average of six days until deposit.

The Clerk told us she was under the impression that the law requiring deposits be made within 72 hours once \$250 is reached applied to currency and not the total of currency and checks. Since most payments she received are by check, she thought going one or two times per month was sufficient. The Clerk also told us that it is difficult to get to the bank on days when she is working by herself. Regarding water collections, the Clerk told us that she makes deposits at least weekly, sometimes more often, in the weeks that the majority of the revenue comes in. Once the due date passes for water bills, and collections are not as frequent, she waits until she has collected around \$200 in currency before going to make a deposit. The longer money remains undeposited, the greater the risk that loss or theft can occur.

The Clerk Did Not Perform Bank Reconciliations

The Clerk does not perform bank reconciliations for either the Town Clerk or Tax Collector bank accounts. The Clerk told us that she does not perform bank reconciliations because with the few checks written from her account each month, she did not think it was necessary to do them. She agreed that it would be beneficial to start performing bank reconciliations to properly monitor the bank accounts each month.

As a result of not preparing bank reconciliations, the Clerk had unremitted money remaining in the Town Clerk bank account. The amount remaining in the account at the end of the month ranged from \$410 to \$916. Although money collected and deposited by the Clerk during our audit period was generally remitted to the Supervisor and other agencies in a timely manner, this unremitted money remained in the Clerk's bank account since 2018.

The Clerk told us she deposited this outstanding money into her account by mistake, from a few credit card transactions that should have been made to the water fund bank account. The transactions occurred in 2018, shortly after she started as Clerk and she was unable to figure out exactly how to fix the issue. The Clerk turned over the \$435 in remaining money to the Supervisor on April 29, 2021, during our audit fieldwork. Had the Clerk prepared proper bank reconciliations she could have detected this recordkeeping error sooner.

In addition, we found that the Board reviews an annual report from the Clerk. However, it is not performing an annual audit of the Clerk's records as required by Town Law Section 123. The Board was not aware it was required to perform an annual audit and that audit findings and corrective action should be documented. The Supervisor told us the Board would implement this going forward. Not performing the annual audit diminishes the Board's ability to effectively monitor financial operations. A thorough annual audit may have identified the internal control deficiencies noted in the report.

What Do We Recommend?

The Clerk should:

1. Deposit all real property tax collections within 24 hours of receipt, and other Clerk fees and water rents within their required time frames.
2. Remit all real property tax collections to the Supervisor and Treasurer within the required timeframes.
3. Regularly report to the Board on taxes collected and remitted.
4. Properly perform bank reconciliations to help ensure all money is accounted for.

The Board should:

5. Perform an annual audit of the Clerk's records.

Appendix A: Response From Town Officials

Tyler J. Allport
Supervisor

Susan Heard
Town Clerk

Town of Gaines

14087 Ridge Road West
Albion, New York 14411

Mark Radzinski
Highway Superintendent

Charles Prentice Jr.
Town Justice

February 24, 2022

Melissa A. Myers, Chief Examiner
Division of Local Government and School Accountability
Office of the New York State Comptroller
295 Main Street, Suite 1032
Buffalo, NY 14203

RE: Town of Gaines – Town Clerk/Tax Collector Report of Examination

Dear Ms. Myers:

After reviewing your report and meeting with your examiners on February 8, 2022, we believe your findings correlate with the information the Town Clerk/Tax Collector had previously shared with your auditors.

As you stated, the Tax Collector bank reconciliations were performed regularly and balanced at the end of each tax collection period. However, the Town Clerk account needs to be reconciled monthly regardless of the balance, and the Town Clerk agrees with this recommendation. The Town Clerk/Tax Collector will give the Board a monthly update of taxes collected during the collection period and note such in the Board minutes. Additionally, the error of \$435 from the credit card vendor for payments of water meter sales was corrected through transfer to the correct account. Therefore, all funds were accounted for.

The Town Clerk/Tax Collector is a one-person operation and getting to the bank daily while serving the community during office hours is a challenge. Having a full time Deputy position is not economically feasible for the Town of Gaines. Additionally, closing the office daily for bank runs will affect the ability to serve the community during open operational hours. The Clerk/Collector has always done the banking in the small timeframe after closing the Town offices and before the bank closes. The Clerk/Collector will make every effort to go to the bank twice a week in the future to earnestly meet your recommendation.

The one tax remittance due to the Supervisor during the 2021 tax collection was a human error and corrected as soon as realized. We believe sufficient detective controls are in place, which did identify the error, and the correction was done immediately.

Although the Town Board annually reviews the Town Clerk/Tax Collector books, they have never done a full-fledged audit. As Supervisor, I will appoint an audit committee to review the books annually as suggested or hire an outside vendor to perform such audit.

Very truly yours,

Tyler J. Allport, Supervisor
Town of Gaines

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info@townofgaines.org

See
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Appendix B: OSC Comment on the Town's Response

Note 1

Town Law Section 35 requires all real property taxes collected to be deposited within 24 hours of receipt, and Town Law Section 30 requires all clerk fees collected to be deposited within three business days after total collections exceed \$250. If the Clerk cannot go to the bank during regular business hours, she could consider other options such as night deposits and/or electronic check deposits.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and reviewed financial reports to gain an understanding of the Clerk's financial operations.
- We reviewed the tax collections recorded during the period February 1, 2021 through May 4, 2021 to determine whether they were recorded properly, date stamped, and interest and penalties were included.
- We compared the tax collections received by the Clerk during the period January 1, 2021 through May 4, 2021 to the deposit compositions to determine whether collections were deposited intact and in a timely manner. We also reviewed bank statements and canceled checks for the same time period to determine whether all money was remitted to the Supervisor and other appropriate parties in a timely manner.
- We reviewed the Town Clerk's bank statements and canceled check images between June 1, 2020 and May 19, 2021 to determine whether collections were remitted to the Supervisor and other appropriate agencies in a timely manner. We also compared the Clerk's collection records to deposit compositions to determine whether all money was remitted to the Supervisor and other appropriate parties in a timely manner.
- Using our professional judgment, we selected a sample of 144 of the 457 Clerk fees collected between June 1, 2020 and May 19, 2021 to determine whether they were recorded properly. This sample included all building permits and cemetery fees collected during our audit period and every fifth license (dog, hunting, marriage, etc.) recorded in the cash book.
- We reviewed all Clerk fees received between June 1, 2020 and May 19, 2021 to the deposit compositions to determine whether the collections were made intact and in a timely manner.
- We reviewed water rent collections for one billing cycle, from October 1, 2020 through December 31, 2020 and compared them to the bank statements and deposit compositions to determine whether they were properly recorded and deposited intact and in a timely manner.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). 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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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.

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 provided to our office within 90 days, pursuant to Section 35 of 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 the CAP available for public review in the Town Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

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Contact

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