



Town of Porter Capital Projects

Report of Examination

Period Covered:

January 1, 2012 — October 9, 2013

2013M-352



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

February 2014

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 Porter, entitled Capital Projects. 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 Porter (Town) is located in Niagara County and has a population of approximately 6,700 residents. The elected five-member Town Board (Board) is responsible for managing Town operations, including establishing internal controls over financial operations and maintaining sound financial condition. The Town's 2013 adopted budget included appropriations totaling \$4.7 million. These appropriations were funded mainly by real property taxes, sales tax and State aid.

The Town Supervisor (Supervisor) is a member of the Board and serves as the chief executive and chief fiscal officer (CFO). As CFO, the Supervisor maintains accounting records for the Town's operating funds,¹ trust and agency fund and capital projects fund. The Town is currently accounting for three capital projects with cash totaling \$958,904 as of September 30, 2013.

Objective

The objective of our audit was to review the Town's capital projects. Our audit addressed the following related question:

- Did the Board adequately monitor the status of the Town's capital projects?

Scope and Methodology

We examined the Town's financial records for the period January 1, 2012 through October 9, 2013. To provide perspective, we also reviewed Board resolutions and financial information relative to capital projects back to 2007.

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 is 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 generally agreed with our findings and recommendations and indicated they planned to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and

¹ The Town's operating funds include the general townwide, general town-outside-village, highway townwide, highway town-outside-village and special districts (water, sewer, fire protection and lighting).

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.

Capital Projects

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 moneys are properly accounted for and used only for intended purposes. Once a project is complete (all project revenues have been received and all expenditures paid), the Board should adopt a resolution closing the project and indicate how moneys remaining are to be distributed, in accordance with statutory requirements and grant obligations, if applicable. Any subsequent revenues generated and operating expenditures incurred by the capital asset acquired or constructed should be budgeted and accounted for in the applicable operating fund.

A significant amount of Town resources is being inappropriately reported and sequestered in the capital projects fund because the Board and Supervisor did not close completed capital projects and transfer the remaining money to the appropriate operating fund. The Supervisor is accounting for \$913,000 remaining from a “Host Community Fee” (HCF) received in 2007 in the capital projects fund. Town officials indicated that they had not established future plans for this cash. Moreover, the Supervisor is accounting for park operations in the capital projects fund, rather than the general fund. As of September 30, 2013, the capital projects fund held \$39,600 in cash from park operations. These cash balances, which total \$953,000, should be recorded in the general fund-townwide, where they can be used to reduce real property taxes and finance operations.

In 2007, the Town received an HCF of \$2,050,000 from the operator of a landfill located in the Town. The Host Community agreement between the Town and the landfill operator did not specify how the Town had to use the cash. The Town recorded the cash proceeds in the capital projects fund. The Board subsequently established the “Porter on the Lake” capital project and in 2008 transferred \$1,025,000 of the HCF cash to this new capital project to purchase land for a Town park (Park). In that year, the Town purchased waterfront property to be used as the Park for \$945,385. This purchase, as well as expenditures to prepare the Park for public use, was accounted for in the capital projects fund.

The Town has continued to account for the remaining HCF cash in the capital projects fund. Since 2008, the Town used the HCF cash

for interfund loans and transfers to other funds. As of September 30, 2013, the Town reported \$913,422 in HCF cash in the capital projects fund. Since it is clear that the HCF cash is not being used for capital purposes, that is, the acquisition or construction of major capital assets, this cash should be accounted for in the general fund-townwide.

The Town also continues to account for “Porter on the Lake” financial activity in the capital projects fund as well. The Park was opened to the public in 2011. Since then, the public rents pavilions and the Town incurs costs to operate and maintain the Park. However, the Town continues to account for this operating activity in the capital projects fund, rather than the general fund-townwide.

At the exit discussion, we discussed the Town’s plan to properly appoint the funds for further capital reserves and to account for the Park in the general operating fund.

The Board and Town officials must ensure that all financial activity is recorded in the appropriate funds. 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.

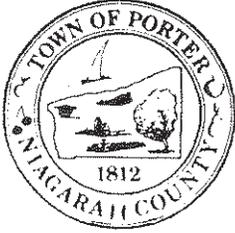
Recommendations

1. The Board should monitor the progress of each capital project and ensure that any completed projects are closed.
2. The Supervisor should ensure that financial activity is recorded in the appropriate fund. If help is needed to record unusual transactions, the Supervisor should contact our office for assistance.

APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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



TOWN OF PORTER

3265 Creek Road • Youngstown, New York 14174 • (716) 745-3730 • Fax (716) 745-9022

February 19, 2014

██████████, Examiner
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Buffalo Regional Office
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Buffalo, New York 14203-2510

VIA E-MAIL
Muni-Buffalo@osc.state.ny.us

Re: Town of Porter Audit Response
to Examination 2013M-352

Dear ██████████

Please accept this correspondence as the Town of Porter's Audit Response to the above referenced examination. The Town Board seriously considers its responsibility to manage the fiscal affairs of the Town of Porter as demonstrated by its favorable financial condition. The Town Board, through its prudent fiscal oversight and in spite of steady increases in wages and other fixed expenses, has been able to provide services to its citizens through 2014 without once having to impose a property tax increase exceeding the statutory 2% tax increase rate cap. The Town Board gratefully accepts constructive input and recommendations from the Office of the New York State Comptroller (OSC) and will continue its efforts to maintain revenues and control expenses.

The stated objective of your audit was to determine whether the Town adequately monitored the status of its capital projects. Your report specifically addressed approximately \$953,000.00 (which has been properly and completely accounted for) being held in two capital projects funds, one related to the balance of funds received from Host Community Agreement (HCA) and the other related to the operation of Porter on the Lake Park, a Town park.

The first fund, related to the HCA, represents the balance of proceeds received by the Town from a local landfill operator. A significant portion of the HCA funds were utilized to acquire Porter on the Lake Park, a waterfront park now owned and operated by the Town. Since the park was acquired the town has undertaken the preparation of a park master plan to determine what improvements should be made to enhance the park for use by the public. It has always been anticipated by the Town that the balance of the HCA funds would be used in large measure to make park improvements however, as pointed out in your report, no specific capital projects have yet been formally identified by the Town. In addition to using these HCA funds for additional park improvements, the Town will be considering building improvements to the Town Hall as the result of recommendations made by the New York State Office of Court Administration relative to Town Court security.

The second fund is again related to Porter on the Lake Park and represents revenue raised by the Town from the operation of the park. It has always been anticipated by the Town that surplus proceeds from the annual operation of the park would be utilized for continued park improvements, however, no specific projects have been identified which, again, are now being considered following the completion of the park master plan.

The Town of Porter recognizes your concern that no specific capital projects have been identified to be paid for from these funds and reiterates that it has always been the Town's intention to use these funds for specific projects once identified in the Porter on the Lake Master Plan which was only completed in 2013. Once the Town has identified the park projects and determined their cost the Town will then be in a position to identify planned improvements to the Town Hall for Town Court Security purposes.

As a result of your recommendations the Town Board has already met to discuss the completion of a five year capital budget to identify specific projects and a timeline for their completion. The Town will also establish specific accounts to identify capital funds which may be derived from Porter on the Lake Park revenues and included in the five year capital budget. In furtherance of this effort each member of the Town Board and the Town Budget Officer have been supplied with a copies of the New York State Comptrollers' Management Guides entitled "Multiyear Capital Planning" and "Reserve Funds". More specific detail regarding the Towns efforts will be included in the Town's Corrective Action Plan.

February 19, 2014.

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In closing, the Town of Porter thanks you for the opportunity to submit this response and upon receipt of the Final Audit we will develop a Corrective Action Plan to address the issues raised in your report.

Respectfully Submitted,

Merton K. Wiepert, Town Supervisor

cc: Town Board
Town Clerk
Town Budget Officer

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial 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 the following areas: financial oversight, cash receipts and disbursements, payroll and personal services, Clerk operations, capital projects and information technology.

During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents, such as Board minutes, financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of fraud, theft or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas at most risk. We selected capital projects for further audit testing.

To accomplish our objective, our procedures included the following:

- We reviewed capital projects activity reported on the Town's annual update documents and audited financial statements.
- We interviewed Town officials regarding budgeting, record keeping and financial reporting matters and to determine the status of projects reported in the capital projects fund.
- We reviewed the Host Community agreement between the Town and the landfill operator.

We conducted this performance audit in accordance with 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 C

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