



Town of Duanesburg

Financial Condition and Internal Controls Over Justice Court Operations and Information Technology

Report of Examination

Period Covered:

January 1, 2010 — March 3, 2011

2011M-253



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 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 Town of Duanesburg, entitled *Financial Condition and Internal Controls Over Justice Court Operations and Information Technology*. 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Town of Duanesburg (Town) is located in Schenectady County and has a population of approximately 6,000 residents. The Town provides various services to its residents including fire protection, snow removal, and highway maintenance. These services are financed primarily by real property taxes, sales tax distributed by the County, and State aid.

The Town is governed by an elected five-member Town Board (Board). The Town Supervisor (Supervisor) is a member of the Board, and also serves as the chief executive officer and chief fiscal officer. As the chief fiscal officer, the Supervisor is responsible for overseeing the conduct of virtually all of the Town's financial duties. The Board is the legislative body that oversees the Town's operations, finances, and overall management. Although the Board is primarily responsible for overseeing the effectiveness of internal controls, the Supervisor and department heads share responsibility for ensuring that internal controls are adequate and operating effectively.

The Town's budgeted appropriations for the 2011 fiscal year totaled \$3.3 million.

Scope and Objective

The objective of our audit was to examine internal controls over financial condition, Justice Court operations, and information technology (IT). Our audit addressed the following related questions:

- Are Town officials effectively monitoring the Town's financial condition to maintain a reasonable level of fund balance?
- Are internal controls over Justice Court operations appropriately designed and operating effectively to adequately safeguard Town assets?
- Are internal controls over IT appropriately designed to safeguard Town assets?

Audit Results

The Board has not adopted a policy and Town officials have not developed procedures to govern the level of unexpended surplus funds¹ to be maintained and/or to determine whether the amount maintained is reasonable. Further, for fiscal years 2006 through 2010, the Board adopted budgets that underestimated revenues by approximately \$1.4 million and overestimated expenditures by approximately \$235,000, contributing to annual operating surpluses that averaged nearly \$195,000. Consequently, fund balances that the Board appropriated as funding sources were never used. As of December 31, 2010, the Town has accumulated unexpended surplus funds in the general fund totaling \$2,032,986, or 224 percent of the ensuing year's general fund budget. These significant idle moneys were not used to reduce the tax levy; in fact, the amount that the fund balance increased was nearly equal to the cumulative real property taxes raised, which totaled \$979,377 during that time.

Preliminary results show that the pattern of unrealistic budgeting and excessive tax levies has continued. The Town ended 2011 with a reported positive budgetary variance of \$255,000, and unexpended surplus funds are estimated at approximately \$1,981,000, or 217 percent of the budgeted appropriations for 2012, while taxes remain at previous levels. Lastly, the Board and Town officials did not employ long-term financial planning, which would have helped them identify the pattern of significant budget variances, take steps to balance the budget, and bring the Town's fund balance down to reasonable levels.

We also identified weaknesses in the Justice Court's internal controls over financial operations. There was no documentation of monthly bank reconciliations, and neither of the two Justices performed a monthly accountability analysis or reconciled their bail accounts. We also found that, because the computerized accounting records were not properly updated to reflect bail payments, the balances shown on the computerized report did not agree with those logged in the manual bail books maintained by the Court clerks, and had never been reconciled. Because of these weaknesses, the Justices have limited assurance that all moneys collected are properly recorded and accounted for, and Court funds are at risk of being misappropriated without detection or correction.

Finally, the Town's internal controls over IT need to be improved. Town officials did not develop a disaster recovery plan, and the Town has not adopted policies and developed procedures for proper data backup and storage or for remote access by the Town's system maintenance vendor. As a result, the Town's computer data is at risk of damage, loss, or misuse.

Comments of Local Officials

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 indicated in Appendix A, Town officials generally agreed with our findings and recommendations and indicated they plan to initiate corrective action. Appendix B includes our comment on an issue raised in the Town's response.

¹ The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted, and unrestricted (comprising committed, assigned, and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term 'unexpended surplus funds' to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54), and is now classified as unrestricted, less any amounts appropriated for the ensuing year's budget (after Statement 54).

Introduction

Background

The Town of Duanesburg (Town) is located in Schenectady County and has a population of approximately 6,000 residents. The Town provides various services to its residents including fire protection, snow removal, and highway maintenance. These services are financed primarily by real property taxes, sales tax distributed by the County, and State aid.

The Town is governed by an elected five-member Town Board (Board). The Town Supervisor (Supervisor) is a member of the Board, and also serves as the chief executive officer and chief fiscal officer. As the chief fiscal officer, the Supervisor is responsible for overseeing the conduct of virtually all of the Town's financial duties. The Board is the legislative body that oversees the Town's operations, finances, and overall management. Although the Board is primarily responsible for overseeing the effectiveness of internal controls, the Supervisor and department heads share responsibility for ensuring that internal controls are adequate and operating effectively.

Objective

The objective of our audit was to examine internal controls over financial condition, Justice Court operations, and information technology (IT). Our audit addressed the following related questions:

- Are Town officials effectively monitoring the Town's financial condition to maintain a reasonable level of fund balance?
- Are internal controls over Justice Court operations appropriately designed and operating effectively to adequately safeguard Town assets?
- Are internal controls over IT appropriately designed to safeguard Town assets?

Scope and Methodology

We examined the Town's financial condition, Justice Court operations, and controls over IT for the period January 1, 2010 to March 3, 2011. Our audit identified areas in need of improvement concerning IT controls. Because of the sensitivity of this information, certain vulnerabilities are not discussed in this report but have been communicated confidentially to Town officials so they could take corrective action.

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 findings and recommendations and indicated they plan to initiate corrective action. Appendix B includes our comment on an issue 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.

Financial Condition

The Board is responsible for making sound financial decisions that are in the best interest of the Town and the taxpayers that fund its operations. This responsibility requires Board members to balance the level of services desired and expected by Town residents with the ability and willingness of the residents to pay for such services. The Board must adopt structurally balanced budgets for all operating funds that provide sufficient recurring revenues to finance recurring expenditures. The Town may retain a reasonable portion of fund balance, referred to as unexpended surplus funds, to use as a financial cushion in the event of unforeseen financial circumstances, and can legally reserve portions of fund balance to finance future costs for various specified objects or purposes. It is also important that long-term plans are in place to ensure that moneys accumulated in operating funds are used for appropriate and authorized purposes. Therefore, the Board must maintain only a reasonable amount of fund balance and adopt budgets that include realistic estimates of revenues and expenditures, with fund balance used as a funding source when appropriate. By following these practices, the Board can ensure that the amount of real property taxes to be raised is no greater than necessary.

The Board has not adopted a policy and Town officials have not developed procedures to govern the level of unexpended surplus funds to be maintained and/or to determine whether the amount maintained is reasonable. The Board's adopted budgets in the fiscal years 2006 through 2010 were not based on realistic estimates of revenues and expenditures, resulting in repeated operating surpluses in the general fund. Consequently, fund balance that was appropriated as a funding source was neither needed nor used. As a result, the Town has accumulated unexpended surplus funds totaling \$2,032,986, or 224 percent of the ensuing year's appropriations, while continuing to levy taxes that were not necessary, and preliminary results show that the Town ended 2011 with a positive budgetary variance of \$255,000 while taxes remained at previous levels. Further, the Board and Town officials did not employ long-term financial planning, which would have helped them identify historical budgeting trends to help maintain reasonable fund balances and ensure that the amount of tax levied was only as much as necessary.

Fund Balance

Fund balance represents moneys remaining from prior fiscal years that can be appropriated to finance the next year's budget and/or set aside as reserves for specific purposes. Towns may carry over the remaining unexpended surplus fund balance from year to year to help

mitigate the effect of unforeseen contingencies, and to ensure the orderly operation of the Town and continuity of necessary services. However, if the fund balance is kept at excessively high levels, moneys that could benefit the Town are not being used, thereby placing an unnecessary burden on the taxpayers. It is important that the Board adopt policies and Town officials develop budgeting procedures to ensure that revenue and expenditure estimates are realistic, so that the amount of fund balance accumulated is reasonable and, therefore, taxes do not exceed necessary amounts. Additionally, the prudent use of fund balance as a funding source to reduce real property taxes is a basic component of local government budgeting.

The Board did not adopt a policy, and Town officials did not develop procedures, to govern the level of unexpended surplus funds maintained. Additionally, the Board had not developed accurate budget estimates. As a result, the general fund accumulated an excessive amount of fund balance. The Town's reported financial activity for the last five completed fiscal years shows that, in particular, the Board's significant underestimation of revenues contributed to a cumulative budget variance of \$1,635,348:

| | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | Total |
|---------------------------------|------------------|------------------|------------------|------------------|------------------|--------------------|
| Estimated Revenues ^a | \$715,778 | \$753,460 | \$775,259 | \$666,207 | \$622,791 | \$3,533,495 |
| Actual Revenues | \$1,034,799 | \$999,694 | \$1,044,530 | \$980,865 | \$873,421 | \$4,933,309 |
| Variance | \$319,021 | \$246,234 | \$269,271 | \$314,658 | \$250,630 | \$1,399,814 |
| Percent Variance | 45% | 33% | 35% | 47% | 40% | 40% |
| Appropriations | \$811,778 | \$826,460 | \$851,259 | \$851,207 | \$853,527 | \$4,194,231 |
| Actual Expenditures | \$715,260 | \$762,936 | \$890,467 | \$813,794 | \$776,240 | \$3,958,697 |
| Variance | \$96,518 | \$63,524 | (\$39,208) | \$37,413 | \$77,287 | \$235,534 |
| Percent Variance | 12% | 8% | (5%) | 4% | 9% | 6% |
| Total Budget Variance | \$415,539 | \$309,758 | \$230,063 | \$352,071 | \$327,917 | \$1,635,348 |

^a Does not include appropriated fund balance, which is a financing source but not a revenue

The Board underestimated revenues by approximately \$1.4 million and overestimated expenditures by more than \$235,000 over that time, which ultimately resulted in operating surpluses and no need to use the fund balance that was appropriated. Had the Board reviewed historical financial data, it may have avoided such significant variations. For example, although for these five years the Town received an average of \$373,000 per year in sales tax revenue, the Board budgeted only between \$180,000 and \$215,000 for sales tax revenue during each of these years. According to the Town's preliminary financial statements for fiscal year 2011, this pattern has continued: due to underestimated

revenues and overestimated expenditures, the Town finished the year with a positive budgetary variance of \$255,000.²

Further, as shown in Table 2, the Board did not make prudent use of fund balance as a funding source to reduce real property taxes, even with increased appropriations of fund balance from 2006 to 2010. While the amounts of both the operating surplus and the tax levy decreased over that time, the cumulative operating surplus amount of \$974,612 (as of December 31, 2010) is nearly equal to the \$979,377 in total taxes levied over the same period. In essence, the Town could have eliminated property taxes in 2006 and still have had sufficient revenues to operate.

| Table 2 : General Fund – Operating Surplus, Fund Balance, and Tax Levy Fiscal Years 2006-2010 | | | | | | |
|--|--------------------|--------------------|--------------------|--------------------------|--------------------|----------------------------|
| | 2006 | 2007 | 2008 | 2009 | 2010 | Total 2006-2010 |
| Beginning Fund Balance | \$1,308,555 | \$1,628,094 | \$1,864,852 | \$2,018,734 ^a | \$2,185,805 | |
| Revenues | \$1,034,799 | \$999,694 | \$1,044,530 | \$980,865 | \$873,421 | \$4,933,309 |
| Expenditures | \$715,260 | \$762,936 | \$890,467 | \$813,794 | \$776,240 | \$3,958,697 |
| Operating Surplus | \$319,539 | \$236,758 | \$154,063 | \$167,071 | \$97,181 | \$974,612 |
| Less: Reserved Fund Balance | \$0 | \$0 | \$0 | \$0 | \$0 | |
| Less: Appropriated Fund Balance | \$73,000 | \$76,000 | \$185,000 | \$230,736 | \$250,000 | |
| Unreserved, Unappropriated Fund Balance | \$1,555,094 | \$1,788,852 | \$1,833,915 | \$1,955,069 | \$2,032,986 | |
| Total Year-End Fund Balance | \$1,628,094 | \$1,864,852 | \$2,018,915 | \$2,185,805 | \$2,282,986 | |
| Tax Levy | \$205,542 | \$199,357 | \$190,859 | \$193,207 | \$190,412 | \$979,377 |
| Operating Surplus as Percentage of Tax Levy | 155% | 119% | 81% | 86% | 51% | 99.6% |

^a The difference from the 2008 Year-End Fund Balance is due to a minor prior period adjustment.

² Estimated revenues were \$659,000 and actual revenues were \$789,000, a variance of \$130,000. Estimated expenditures were \$951,000 and actual expenditures were \$826,000, a variance of \$125,000.

The Board's consistent appropriation of general fund balance for operating purposes should have resulted in a declining fund balance. However, because of annual operating surpluses, no fund balance was actually used to fund operations and, therefore, the fund balance amount increased to an excessive level. At December 31, 2010, the Town had a general fund unexpended surplus fund balance of \$2,032,986, or 224 percent of the ensuing year's general fund budget.

According to the Town's preliminary financial statements, the general fund ended the 2011 fiscal year in a similar situation. The unexpended surplus funds are estimated at approximately \$1,981,000, or 217 percent of the budgeted appropriations for 2012. Although the Town reported an estimated operating deficit of \$37,000 for 2011, breaking the pattern of operating surpluses, Town officials had planned on a deficit of \$291,000.³ However, this deficit did not materialize because, as in prior years, revenues were underestimated and expenditures were overestimated, resulting in a significant positive budgetary variance. Further, the Town's continuing practice of unrealistic budgeting kept the tax levy at approximately the same levels as before: \$198,000 in 2011.

The Town's 2012 adopted budget does not appear to have taken into account these historical operating results, but rather continues with similar levels of appropriations, estimated revenues, appropriated unexpended surplus funds, and taxes⁴ as in the 2011 budget. While a conservative budget is often a good approach, especially in fiscally uncertain times, the Town's 2012 budget appears overly conservative. Based on prior years' results, the 2012 budget materially underestimates revenues and overestimates expenditures and will continue the pattern of keeping fund balance large enough to finance over two years' operations.

Long-Term Planning

An important oversight responsibility of the Board is to plan for the future by setting adequate long-term priorities and goals. To address this responsibility, it is important for management to develop comprehensive, multi-year financial and capital plans to estimate the future costs of ongoing services and future capital needs. Effective multi-year plans project operating and capital needs and financing sources over a three- to five-year period. Planning on a multi-year basis allows Town officials to identify developing revenue and expenditure trends and set long-term priorities and goals. It also allows them to assess the impact and merits of alternative approaches to financial

³ A planned operating deficit occurs when the Board deliberately adopts a budget with appropriations that are greater than the expected revenues, with the difference funded by appropriated fund balance. The 2011 fiscal year \$291,000 planned deficit is based on the amended budget.

⁴ The adopted budget for 2012 contains a tax levy of \$200,878.

issues, such as accumulating money in reserve funds and the use of fund balance to finance operations. Any long-term financial plans should be monitored and updated on an ongoing basis to ensure that decisions are guided by the most accurate information available.

The Board did not develop a comprehensive, multi-year financial and capital plan, nor did it have any other mechanism in place to adequately address the Town's long-term operational and capital needs. Such plans would be a useful tool for the Board to address the large fund balance in the general fund.

Recommendations

1. The Board should adopt a policy and Town officials should develop procedures to ensure that the amount of unexpended surplus funds is reasonable.
2. The Board and Town budget officer should develop revenue and expenditure estimates for the annual budget that are realistic to ensure that the amount of fund balance appropriated in the budget is actually used.
3. The Board should develop long-term financial and capital plans that project operating and capital needs and financing sources for a three- to five-year period. If the Board believes it is necessary to accumulate money for a future, specifically planned purpose, it should consider formally establishing authorized reserves as provided for in statute.

Justice Court

A well-designed system of internal controls ensures that cash received by the Court is safeguarded and that Court activity is properly recorded and reported. Justices are responsible for adjudicating cases brought before their court and accounting for and reporting all related Court financial activities. The Justices must ensure that controls are in place and working effectively, particularly when there is a limited segregation of duties. To meet that responsibility, they must maintain complete and accurate records and safeguard all moneys collected. Essential procedures include the monthly reconciliation of bank accounts to Court records, and a monthly accountability which compares cash on hand and on deposit to detailed lists of amounts due to the State Comptroller's Justice Court Fund (JCF) and other outstanding liabilities, such as bail.

During our audit period, the responsibilities for recordkeeping, including preparing monthly bank reconciliations, were delegated to the Court clerks assigned to each of the two Town Justices. The Court uses a computerized accounting system that produces a printed record of current pending bail, but does not provide a bail balance for previous points in time. However, each of the Justices' clerks also recorded bail in a supplemental manual bail book.

We identified weaknesses in the Court's internal controls over financial operations. There was no documentation indicating that monthly bank reconciliations had been performed, and neither Justice performed a monthly accountability or reconciled their bail accounts. Because of these weaknesses, the Justices have limited assurance that all moneys collected were properly recorded and accounted for, and the risk is increased that Court funds could be misappropriated without detection or correction.

We reviewed the bank statements, canceled checks, manual and computerized records, and JCF reports for six months⁵ during the 2010 fiscal year to determine whether proper bank reconciliations and accountability analyses had been prepared.

Bank Reconciliations and Monthly Accountabilities — Bank reconciliations and accountability analyses document the status of moneys held by the Court at any point in time, and provide a means of verifying that the Court is properly addressing its custodial responsibilities. Although Court personnel told us that monthly

⁵ January, February, April, June, September, and October

bank reconciliations were performed, there was no documentation to confirm this, or to show that the adjusted bank balances had been reconciled to the checkbook registers. Additionally, monthly accountabilities were not performed, and neither Justice had kept an accurate accounting of bail.

Bail Records — The Justices are responsible for maintaining an appropriate record of all bail received and disbursed, indicating when and by whom the bail was paid and to which case it relates, and identifying the date, check number, and to whom the bail was subsequently disbursed.⁶ Additionally, the Justices must ensure that the bail record is reconciled to the bank account balance on a monthly basis.

We found that the amounts in the manually maintained bail book did not agree with the balances on the computerized report, and had never been reconciled. For example, the computerized bail reports identified balances of \$6,346 and \$4,950 for the two Justices, but the Justices confirmed to us that their bail account balances were only \$750 and \$2,950, respectively, as noted in their manual records. Since the computerized bail record was to reflect current pending bail, we determined that the discrepancies between the Justices' manual and computerized records occurred because the computerized record was not always updated. As of the end of our fieldwork in September 2011, the Justices were in the process of reviewing the older listed bail balances to ensure their proper disposition.

Because the Justices did not ensure that monthly bank reconciliations were performed, monthly accountabilities completed, and pending bail records properly maintained, there is a risk that errors or irregularities can occur and remain undetected for several months or years.

Recommendations

4. The Justices should prepare monthly bank reconciliations and analyses of Court liabilities for comparison with available cash. Any differences should be promptly identified and investigated, and, if necessary, corrective action taken.
5. The Justices should ensure that all bail received and disbursed is properly accounted for.

⁶ Bail levied on defendants is either returned when the case has been adjudicated or used to pay fines and fees imposed by the Court.

Information Technology

Town officials are responsible for developing internal controls systems, including policies and procedures, to safeguard computerized data and assets. Computerized systems and electronic data are a valuable resource that Town officials rely on for making financial decisions, processing transactions, keeping records, and reporting to State and Federal agencies. It is therefore essential for the Town to develop a disaster recovery plan to help prevent the loss of computerized data and for resuming operations in the event of disaster, implement effective procedures for data backups and secure storage of backup media, and adopt policies that monitor remote access by authorized users.

We found weaknesses in the Town's internal controls over IT. Town officials did not adopt a formal disaster recovery plan, and the Town has not adopted policies and procedures for proper data backup and storage and for remote access by the Town's system maintenance vendor. As a result, the Town's computer data is at risk of damage or loss.

Disaster Recovery Plan

An effective system of internal controls includes a disaster recovery plan to help prevent or minimize the loss of computerized equipment and data and provide procedures for recovery in the event of an actual loss. Even small disruptions in electronic data systems can require extensive effort to evaluate and repair. Therefore, a disaster recovery plan should include precautions to minimize the effects of a disaster so that Town officials can either maintain or quickly resume critical functions. The plan may also include a significant focus on disaster prevention.

The Board has not adopted a comprehensive disaster recovery plan. In the event of a disaster, Town personnel have no formal guidelines or plan to follow to prevent the loss of equipment and data, or procedures for data recovery. This could lead to the loss of important financial data and serious interruptions to Town operations, such as not being able to process checks to pay vendors and employees. The Town Clerk produced a list of data backup and recovery procedures provided by the Town's computer services vendor, which does not constitute an acceptable disaster recovery plan. A formal disaster recovery plan would need to be more comprehensive, address threats to the Town's IT system, and be formally adopted by the Board.

Data Backup

A strong system of internal controls includes a system to back up (create a copy of) computer processed data. Good business practices require Town officials to run daily backups and keep the backup data as current as possible, and to store backup data at an environmentally and physically secure offsite location for retrieval in case of an emergency.

Town officials have not adopted comprehensive data backup policies and procedures for the computer-processed data within the Town's departments. According to Town officials, although the Town's IT service provider performs periodic backups of data files to a tape, the tape is not stored in a secure offsite location for retrieval in case of emergency, but instead on Town premises in a locked safe. While the safe provides a limited level of security, storing the backup tapes on site subjects the backup media to the same risks (disasters) as the original data and defeats the purpose of a backup control procedure.

Remote Access

Effective internal controls ensure that remote access – the ability to access the computer from the Internet or other external sources – is controlled and monitored so that only authorized individuals may enter or retrieve data. Internal controls include policies and procedures addressing how remote access is granted, who is given remote access, and security issues such as how remote access will be monitored.

The Board has not established policies and procedures for remote access to ensure that computerized data is properly safeguarded. Town officials granted remote access to the Town's computer operations to a private firm for repair and maintenance of the computer system. While Town staff does authorize access to the system, the authorization is not granted for each instance of remote access and no one monitors remote users' activity after they enter the system. As a result, there is a risk that computerized data could be compromised and unauthorized activity could go undetected.

Recommendations

6. The Board should develop and adopt a comprehensive disaster recovery plan that addresses the range of potential threats to the Town's IT system and provides procedural guidance for employees to follow if the Town's computer operations are interrupted or its IT systems or data incur loss or damage. Town officials should distribute the plan to all responsible parties, periodically test the plan, and update the plan as needed.
7. Town officials should ensure that backup copies of data are stored at a secure offsite location.
8. The Board should develop and adopt policies and procedures governing outside users' remote access rights to the Town's computer system.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

René J. Merrihew, Town Supervisor
Leah Lennon, Town Clerk



Jean Frisbee, Council Member
John D. Ganther, Jr., Council Member
Charles Leoni, Council Member
Francis R. Potter, Council Member

Town of Duanesburg

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April 2, 2012

NYS Office of the State Comptroller
Division of Local Government and School Accountability
One Broad Street Plaza
Glens Falls, NY 12801

Dear office of the State Comptroller:

On behalf of the Town Board of the Town of Duanesburg, this letter is in response to the draft of your Report of Examination covering the period of January 1, 2010 – March 3, 2011. The Town Board would first like to take this opportunity to thank you for your interest in the Town as well as the patience and professionalism of the auditors performing this valuable service. We are generally pleased with the outcome of the audit considering the substantial scope and elements your office reviewed. As we anticipated, the audit confirmed that there were no improprieties or misappropriations of any kind. The internal controls currently in place are more than adequate to assure residents of Duanesburg of the safety of their funds.

Unexpended Surplus Funds

We acknowledge the recommendations made by the Office of the State Comptroller (OSC) with respect to establishing authorized reserve funds to reduce the amount of unexpended surplus funds. The Town, in fact, has distinct plans for a portion of the unexpended surplus funds but admittedly did not set up formal reserve funds for specific purposes. These times are tumultuous and what used to be easy in the past is no longer so. There are so many variables and important things to consider prior to spending the people's money. For example: We have long considered and planned a building addition to our little town hall, to accommodate the growing needs of our residents and of our court. Approximately four years ago the Schenectady County Sheriff's Department discussed locating a substation in our Town. We approached them to gauge their interest in a consolidation of services. The Town Board thought perhaps our Judges could join them in their new building negating the need for a town hall expansion. This concept remains under consideration. We did not want to commit the funds to a designated reserve fund until we had a more definitive plan.

Recently, the County of Schenectady graciously transferred to the Town, ownership of a small parcel of land in the center of town to create a Veteran's memorial park. We intend to set aside a portion of our unexpended surplus funds to improve this parcel as well as tend to some much needed repairs of ball fields and other projects in our other two parks.

The Town is also faced with a consolidation of the dispatching of emergency services within the county of Schenectady. The costs of this project will be passed on by the county to all of the municipalities in the county. At this time the actual cost to the town of Duanesburg is unclear, although preliminary estimates indicated that the annual costs would be substantial. We plan to designate some of our fund balance to offset the cost of this project to taxpayers.

The Town Board has also recognized the need for modifications and/or repairs at our Highway Garage, for which funds must be available.

The most important and most difficult circumstances to plan for are emergencies and catastrophes. Relatively speaking, and as compared to our neighboring towns, Duanesburg survived Hurricane Irene and Tropical Storm Lee very well. The Town did, however, suffer severe damage to our roads. Almost every culvert was impacted in some way. The cost of the resulting repairs is staggering, and is estimated at approximately \$550,000. FEMA should reimburse a portion of some of the costs, but the amount of reimbursement is unknown. Even so, FEMA simply provides reimbursement after the Town expends funds, subject to FEMA's approval. Regardless, the repairs must be made. We understand that the reimbursement process may exceed four years. Also, as a result of the storms, homeowners lost their homes and the Town has recently discussed participation in a "buyout" program for those that qualify. The total cost of this program is unknown.

In addition to the storm related damage, two Town roads need major emergency culvert repair. These repair expenses are not eligible for FEMA reimbursement, and the cost to the taxpayers is estimated to \$349,000. The combined estimated costs from storm damage (\$550,000) and emergency repairs (\$349,000) is approximately \$889,000.

The town is in the process of forming a third sewer district for the hamlet of Duanesburg. This is a very costly process, and until it is constructed and revenue generated from users of the district, the Town must expend substantial funds. During the construction of our first sewer district in the Village of Delanson we were able to use funds from the unexpended surplus fund until we could begin collecting revenue from that district. We hope for that luxury during this project.

Overestimation of Expenditures and Underestimation of Revenues

The Town also acknowledges your recommendation to develop a better plan of estimating expenditures and revenues. We understand your findings when examined and presented as a broad stroke overview. The tables you provided in the report were helpful and will be used in the future. We need to clarify, if only for the people in our Town, that the budget is not just a broad stroke overview but a line by line estimate influenced by many factors.

Concerning revenues, and by way of example, the sales tax revenue provided by Schenectady County is our largest revenue source after tax collection. The Town's share is allocated through a formula that allows for a guaranteed portion. Any additional funds disbursed to the Town are dependent on sales tax collected throughout the county above and beyond the original estimates. The guaranteed portion is \$461,757. Any portion above the guaranteed amount is subject to current levels of spending by consumers and sales tax generated in the county. In the current economic climate, we were not comfortable appropriating more than \$500,000 to our budget funds. We also note that mortgage tax, which is another revenue source, has declined from \$246,312 in 2006 to \$117,296 in 2011. This decline cannot be predicted and speaks volumes as to the difficulty in estimating an accurate amount of revenue.

Concerning expenditures, there have also been mitigating factors during the 2006 – 2010 time period reviewed. For example, in one year we budgeted our usual amount for Election Expense, but Schenectady County took control of the election costs leaving that amount unexpended in our budget. Further, each year the costs of the NYS Retirement system and health insurance are undeterminable until long after we are required by law to have our budget completed and approved. One year we reacted to reports of a 16% increase for retirement system costs. The actual increase came in much lower, again leaving the remaining amount unexpended.

In a budget of our size, even small variations on a budget line can give the appearance of gross over budgeting, especially when presented in percentage form.

Information Technology

The Town acknowledges your recommendation to adopt a comprehensive disaster recovery plan for the Town's IT System. We disagree with this finding as we do have a disaster recovery plan that includes offsite backup of data on a daily basis at an off-site location. We will formally adopt this plan. We also acknowledge that the plan was not distributed nor periodically tested, and that we have not yet adopted procedures governing remote access.

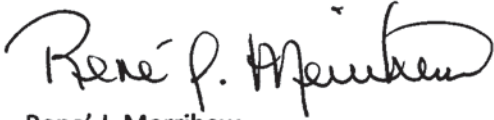
See
Note 1
Page 21

Conclusion

In closing, when considering the "outside" events that have substantial effect on our Town and examining the disastrous results for those Towns not carrying an adequate reserve fund to cover unexpected costs, the Town Board takes pride in having a surplus and not a deficit, having the ability to meet our operating expenses and having funds available should a serious emergency arise.

We would again like to thank you for the report and we look forward to working with you in the future as we develop our Corrective Action Plan.

Sincerely:



Rene' J. Merrihew
Duanesburg Town Supervisor

Duanesburg Town Court
5853 Western Turnpike
Duanesburg, New York 12056
518-895-8922

March 30, 2012

Office of the State Comptroller
Division of Local Government
and School Accountability

Dear Sirs,

From January 1, 2010-March 3, 2011 an examination of the Financial Condition and Internal Controls over Justice Court Operations and Information Technology was performed in the Town of Duanesburg. Part of this report dealt with the Justice Court. The two areas that were found to be in the need of some improvements were the bank reconciliations and that the bail funds were monitored and disbursed properly.

Since this report I have instituted a policy that ensures that the bail fund is kept up to date and that the balance is carried forward every month even though no bail was taken in or disbursed thus making it easy to look up the bail monies that are in my account at any given time and match them to a bank reconciliation. I have also implemented the use of monthly bank reconciliations and analyses of court liabilities for comparison with available cash using the monthly checklist for review of Justice Court records from the Justice Court Handbook and will do the report at the end of each month. These new procedures should insure the courts accountability as to any money issues

I would like to thank the auditors for their thoroughness and professionalism while performing their duties. I believe that the recommendations will make this office more proficient as well as accountable.

Sincerely,



Robert B. Butler
Town Justice

APPENDIX B

OSC COMMENT ON THE TOWN'S RESPONSE

Note 1

During our audit fieldwork, Town officials indicated that the backup tape is stored on Town premises in a locked safe, not offsite. We have modified the report to clarify that the Town has no formally adopted policies for disaster recovery and data backups. The distribution and implementation of comprehensive, formally adopted policy guidelines will help preserve the Town's critical data in the event of a disaster.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the 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 condition and control environment, cash receipts and disbursements, cash management, Justice Court operations, water and sewer rents, purchasing, payroll and personal services, and information technology.

During the initial assessment, we interviewed appropriate 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 the risk of potential fraud, theft, and/or professional misconduct. We then decided on the reported objectives and scope by selecting for audit those areas most at risk. We selected financial condition, Justice Court operations, and information technology for further testing.

To accomplish our audit objective and obtain valid evidence, our procedures included the following:

- We analyzed various account balances in the Town's accounting records and verified their accuracy.
- We interviewed the Town Clerk and the independent contractor that provided IT services to the Village to obtain an understanding of internal controls over the Town's computerized system.
- We interviewed Court personnel to gain an understanding of their operation.
- We compared cash receipts and disbursements with supporting documentation, such as receipt books, bank statements, and canceled checks.
- We compared amounts recorded in Justices' accounting records to amounts deposited and the amounts included in the Court's monthly reports to JCF.

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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