



Town of New Hartford Financial Condition and Receiver of Taxes

Report of Examination

Period Covered:

January 1, 2008 — December 31, 2009

2010M-222



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2011

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 New Hartford, entitled Financial Condition and Receiver of Taxes. 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 New Hartford (Town) is located in Oneida County (County). The Town is governed by the Town Board (Board) which is responsible for the general management and control of the Town's financial affairs. The Town Supervisor (Supervisor) serves as the chief financial officer. The Supervisor is responsible, along with other administrative staff, for the day-to-day management of the Town under the direction of the Board. The Receiver of Taxes (Receiver) is an independently elected official and is responsible for collecting Town, County and school district real property taxes.

The Town provides various services to its residents, including police protection, recreation and highway, and general governmental support. These services are financed primarily by real property taxes, sales tax and State aid. The 2010 budget for all funds was approximately \$14.9 million.

Scope and Objectives

The objectives of our audit were to evaluate the Town's financial condition and examine real property tax collections for the period January 1, 2008 to December 31, 2009. We expanded the scope of our audit back to January 1, 2006 to review prior years' financial trends. Our audit addressed the following related questions:

- Does the Board adopt realistic budgets that are structurally balanced, routinely monitor financial operations, and take appropriate actions to maintain the Town's financial stability?
- Do the Receiver and Board have adequate policies and procedures to help ensure that all monies received by the Receiver in her official capacity are recorded, supported, deposited, remitted and reported timely and accurately?

Audit Results

Excessive fund balances have accumulated in the consolidated sewer, general part-town and highway town-wide funds while the general town-wide fund balance steadily declined from \$2.8 million in 2006, resulting in a general town-wide fund unreserved, unappropriated deficit of \$356,000 in 2009. The decline was caused, in part, by planned operating deficits using fund balance to fund operations and by overestimating sales tax revenues. For example, the Board appropriated over \$2 million of fund balance in the 2008 and 2009 budgets, and sales tax revenue results were \$944,000 lower than budgeted in those years. Operating deficits within its police fund also contributed to the decline in the general town-wide fund balance.

The Town's police department provides protection to the area of the Town that lies outside of its villages and also for one of its two villages. The Town accounted for the police operations in the general town-wide fund and did not segregate the portion of its fund balance that relates to this different tax base. While the Town lacks a specific record of the fund balance for the police fund, the bookkeeper keeps track of interfund borrowing and the records show that the police fund owes other funds over \$900,000. We reviewed police revenue and expenditure accounts for the last four years and found the police fund had operating deficits each year, which amounted to \$730,903. Although the actual police fund balance is unknown, we estimate that the police fund has a deficit fund balance of about \$1 million as of December 31, 2009.

We also found weak internal controls over the Receiver's collection activities and inadequate Town oversight of the Receiver's performance. As a result, a \$1,000 bank error occurred and went undetected, deposits were not made timely and intact, penalties and interest were not remitted to the Supervisor in a timely manner, and the Receiver failed to collect \$2,564 in penalties, including \$182 in penalties on her own late tax payments.

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. Town officials generally agreed with our findings and indicated that they have taken corrective action.

Introduction

Background

The Town of New Hartford (Town) is located in Oneida County (County) and covers approximately 25 square miles with a population of approximately 21,000. The Town is governed by a Town Board (Board) which comprises four elected Board members and an elected Town Supervisor. The Town provides various services to its residents, including police, parks and highway, and general governmental support. These services are financed primarily with real property taxes, sales tax and State aid. The 2010 budget for all funds was approximately \$14.9 million.

The Board has the power to impose taxes on real property located within the Town and is responsible for the general management and control of Town finances, including oversight of the collection of real property taxes. The Receiver of Taxes (Receiver) is an independently elected official and is responsible for collecting Town and County real property taxes. The Receiver is also responsible for collecting real property taxes for the New Hartford Central School District, Clinton Central School District and Sauquoit Valley Central School District for properties within the Town. The Receiver is required to first remit the Town's share of the real property taxes with related penalties to the Supervisor, and then pay the residual taxes to the County Finance Office. At the end of the collection period, the Receiver reconciles the tax roll to all taxes collected, adjusted and unpaid and sends a list of unpaid taxes to the County Finance Office for enforcement and collection by County officials. Any related penalties are remitted to the Town Supervisor. The Receiver follows a similar process for collecting school district taxes. The Receiver remits the school district tax collections, without penalties, to the school district Treasurers.¹ Based on the 2008 and 2009 tax settlements with the County, the Receiver was responsible for collecting a total of \$29.9 million in Town and County real property taxes for both 2008 and 2009. The Receiver was responsible for collecting a total of \$51.3 million in school district taxes for both 2008 and 2009.

¹ For school district tax collections, penalties from Town residents are remitted to the Town Supervisor and penalties for non-residents are paid over to the school tax collector. Real Property Tax Law Section 1328 provides that the school tax collector receive a 1 percent fee (of school taxes) during the penalty-free period, plus 5 percent of collections made during the penalty period, if not paid on a salary basis. The Town Receiver of Taxes also serves as the tax collector for the New Hartford Central School District. In lieu of fixed compensation for this position, she is paid these collecting officer's fees for taxes collected from non-Town residents in the New Hartford Central School District (residents who live in the Towns of Paris and Frankfort).

Objectives

The objectives of our audit were to evaluate the Town's financial condition and examine real property tax collections. Our audit addressed the following related questions:

- Does the Board adopt realistic budgets that are structurally balanced, routinely monitor financial operations, and take appropriate actions to maintain the Town's financial stability?
- Do the Receiver and Board have adequate policies and procedures to help ensure that all monies received by the Receiver in her official capacity are recorded, supported, deposited, remitted and reported timely and accurately?

Scope and Methodology

We examined the Town's financial condition and the Receiver's records and reports for the period January 1, 2008 to December 31, 2009. We expanded the scope of our audit to the back to January 1, 2006 to review prior years' financial trends.

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 generally agreed with our findings and indicated that they have taken corrective action.

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 Town 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 for sufficient revenues to finance recurring expenditures.

The Town may retain a reasonable portion of fund balance,² referred to as unreserved, unappropriated fund balance, to use as a financial cushion in the event of unforeseen financial circumstances. The Town may also legally set aside and reserve portions of fund balance to finance future costs of a variety of specified objects or purposes. It is important that the Board maintain only a reasonable amount of fund balance, maintain only necessary and reasonable reserve fund balances, and adopt budgets that include realistic estimates of revenues and expenditures and use surplus fund balance as a funding source, when appropriate. If these practices are followed, only necessary amounts of real property taxes will be raised.

The general town-wide fund balance steadily declined from \$2.8 million in 2006, resulting in a general town-wide fund unreserved, unappropriated deficit of \$356,000 in 2009. The decline was caused, in part, by planned operating deficits using fund balance to fund operations and by overestimating sales tax revenues. For example, the Board appropriated over \$2 million of fund balance in the 2008 and 2009 budgets, and sales tax revenue results were \$944,000 lower than budgeted in those years. Operating deficits within its police fund contributed to the decline in the general town-wide fund balance. Conversely, excessive fund balances have accumulated in the consolidated sewer, general part-town and highway town-wide funds.

General Town-Wide and Police Funds

The annual budget is a financial plan for Town operations indicating the Board's choices for the allocation of resources and establishing spending limits to provide assurance that financial commitments do

² Fund balance is the difference between revenues and expenditures accumulated over a period of time. The unreserved, unappropriated amount is the portion of fund balance that allows the Town to manage unexpected occurrences such as emergency repairs, and cost and demand fluctuations in essential commodities such as utilities and gasoline, and an unanticipated shortfall in estimated revenues.

not exceed appropriations. Good budgetary controls require the Board to monitor the budget and ensure that uncommitted appropriations are available before funds are encumbered or expended. In addition, Town Law states that the Supervisor should not permit any fund or appropriation account to be overdrawn at any time.

There are two villages within the Town – the Village of New Hartford and the Village of New York Mills. The Town’s Police Department provides service to the area of the Town that lies outside both villages and also to the Village of New Hartford. The Town does not provide police protection within the Village of New York Mills because it has its own Police Department. The Town finances its Police Department through real property taxes raised on the area of the Town located outside the Village of New York Mills.

Governmental accounting systems are organized and operated on a fund basis. A fund is a fiscal or accounting entity which is segregated for the purpose of carrying on specific activities. Because the general town-wide fund³ and the police fund raise taxes on two different tax bases, it is essential for the Supervisor to maintain separate records for each fund. However, the Town has accounted for its police operations in the general town-wide fund but does not segregate what portion of its fund balance relates to this different tax base for police operations. As a result, the Town lacks a specific record of the separate fund balances of the general town-wide fund and the police fund, which must be carried forward from year to year. Because separate records are not maintained, we evaluated the financial condition of the general town-wide fund, which includes the police fund operations. We then evaluated the revenue and expenditures related to police operations in order to estimate the financial positions of the police fund and the general town-wide fund separately.

The combined general town-wide fund and police fund has experienced a significant decline in unreserved fund balance, resulting in a reduction in the fund balance from \$2.8 million at the beginning of 2006 to an unreserved, unappropriated fund balance deficit of \$356,462 at the end of 2009.

³ A general town-wide fund is used to account for transactions that are charged to all areas of the Town, including both villages.

Fund Balance Trends				
Combined General Town-Wide Fund and Police Fund				
	2006	2007	2008	2009
Beginning Fund Balance	\$2,817,085	\$1,929,425	\$1,306,155	\$1,046,006
Prior Period Adjustment			\$37,698	\$607
Operating Surplus (Deficit)	(\$887,660)	(\$623,270)	(\$297,847)	(\$1,209,927)
Ending Fund Balance	\$1,929,425	\$1,306,155	\$1,046,006	(\$163,314)

Breakdown of Ending Fund Balance				
	2006	2007	2008	2009
Reserved			\$173,148	\$193,148
Unreserved, Appropriated	\$610,971	\$835,129	\$1,170,444	\$0
Unreserved, Unappropriated	\$1,318,454	\$471,026	(\$297,586)	(\$356,462)
Total Fund Balance	\$1,929,425	\$1,306,155	\$1,046,006	(\$163,314)

To keep property taxes increases at relatively modest amounts, the Board budgeted for planned operating deficits in two of the last three years by appropriating \$835,129 and \$1,170,444 in the 2008 and 2009 budgets, respectively. However, the amount of fund balance appropriated in the 2009 budget was \$297,586 more than the Town had available, and the Town ultimately ended 2009 with a \$356,462 unreserved, unappropriated deficit fund balance.

In addition to the continued use of fund balance, which the Town was unable to sustain as an ongoing financing source, the financial condition of the general town-wide fund worsened when sales tax revenues did not meet the budgeted expectations. For example, during 2008 and 2009, the difference between the original budget and actual sales tax revenues was \$943,938

General Town-Wide Fund – Sales Tax Revenues					
	2006	2007	2008	2009*	Total
Original Budget	\$2,299,303	\$2,587,539	\$2,587,539	\$2,613,189	\$10,087,570
Actual	\$2,150,044	\$2,358,268	\$2,300,000	\$1,956,790	\$8,765,102
Difference	(\$149,259)	(\$229,271)	(\$287,539)	(\$656,399)	(\$1,322,468)
Percent Variance	(6%)	(9%)	(11%)	(25%)	(13%)
*The 2009 budget was amended in September, reducing sales tax revenue estimates to \$2,469,489. However, this revised estimate still exceeded the actual results by 21 percent.					

For 2010, the Board estimated the sales tax revenue more conservatively by budgeting about \$1.8 million in the general town-wide fund. It also did not appropriate any fund balance in either the general town-wide fund or police fund in its 2010 budget. Given these reductions in available financing sources, the Board increased real property taxes in the general town-wide fund (excluding police

operations) to about \$1.4 million in 2010 – a nearly \$1.2 million increase (620 percent) over the prior year. Real property taxes in the police fund were increased 3 percent to about \$2.6 million from 2009 to 2010.

The bookkeeper uses specific accounting system codes for most police revenues and expenditures,⁴ keeps separate bank accounts for police operations, and manually keeps track of interfund borrowing between the police fund and other funds. We reviewed the operating results in the police accounts over recent years to determine whether the police operations had operating surpluses or deficits. We estimate that between 2006 and 2009, the police fund had combined operating deficits totaling \$730,903.⁵

Police Operations - Revenues					
	2006	2007	2008	2009	Total
Original Budget	\$2,650,551	\$2,588,476	\$2,610,880	\$2,745,909	\$10,595,816
Actual	\$2,610,944	\$2,502,618	\$2,641,916	\$2,859,224	\$10,614,702
Difference	(\$39,607)	(\$85,858)	\$31,036	\$113,315	\$18,886
Percent Variance	(1%)	(3%)	1%	4%	0%
Police Operations - Expenditures					
	2006	2007	2008	2009	Total
Original Budget	\$2,732,551	\$2,588,476	\$2,692,880	\$2,745,909	\$10,759,816
Actual	\$2,784,543	\$2,672,091	\$2,902,678	\$2,986,293	\$11,345,605
Difference	(\$51,992)	(\$83,615)	(\$209,798)	(\$240,384)	(\$585,789)
Percent Variance	(2%)	(3%)	(8%)	(9%)	(5%)
Police Operations - Operating Results					
	2006*	2007	2008*	2009	Total
Operating Surplus (Deficit)	(\$173,599)	(\$169,473)	(\$260,762)	(\$127,069)	(\$730,903)
* The 2006 and 2008 adopted budgets each included the use of \$82,000 of fund balance, which contributed to the operating deficits in those years.					

Generally, the Board budgeted realistic revenues for police operations over the past four years. However, the Town consistently overspent the police fund appropriations. For example, the Board budgeted about \$765,000 for police employee benefits in 2009, but the actual expenditures were about \$934,000 (a difference of \$169,000 or 22 percent).

According to the bookkeeper's records, at December 31, 2009, the police fund owed \$996,454 to other funds for interfund borrowings,

⁴ The bookkeeper told us that they started accounting for police operations in this manner in 2004.

⁵ The bank account interest revenue is not known, but we do not believe that amount will significantly affect our analysis. In addition, the employee benefits expenditures are not separated out by accounting system code; however, the personnel technician was able to provide these actual results for our analysis.

and had a cash balance of \$68,930. However, the actual fund balance of the police fund is unknown because officials have not maintained a separate set of records since the inception of the fund in 2004. Based on the regular operating deficits in police operations over recent years and the Town's police bank account cash balances, recorded reserves and interfund borrowing, we estimate that the police fund has a deficit fund balance of about \$1 million as of December 31, 2009.⁶ If we separate this from the general town-wide fund, this would leave a positive fund balance of about \$837,000 in the general town-wide fund.⁷ The unreserved, unappropriated fund balance would be about 14 percent of 2010 budgeted appropriations in that fund.

In October 2009, the Board adopted a resolution to create a general part-town police fund for all police revenues and expenditures. According to the bookkeeper, she has created a separate fund in the accounting system and has been recording police revenues and expenditures in those accounts in 2010. However, the Town has not yet established the fund balance of the police fund, so the actual financial position of the fund is still uncertain.

Other Funds' Excessive Fund Balances

Maintaining a reasonable fund balance and reserve funds are key elements of effective long-term financial planning that can have several benefits, including stabilizing the tax rate. Towns may carry over unreserved, unappropriated fund balance from year to year to, in part, help mitigate the risk of unforeseen contingencies and ensure the orderly operation of the Town and continuity of necessary services. Reserve funds may be established by Board action, pursuant to various laws, and are used to finance specific purposes. The statutes pursuant to which the reserves are established determine how the reserves may be funded and expended. It is important that the Board and Town officials ensure that the total fund balance accumulated and maintained by the Town is reasonable. Excessive fund balances have accumulated in the consolidated sewer, general part-town and highway town-wide funds.

⁶ We did not recreate the police fund records to calculate the operating results in 2004 and 2005, which were the first two years the Town began budgeting police operations separately. However, according to the Town's records, the police fund owed other funds a net amount of \$996,454 at the end of 2009. The police accounts only had a cash balance of \$68,930 and the Town reported a police reserve of \$125,000 at the end of 2009, which means the Town would have to accumulate about \$1.05 million in cash to repay its loans and retain a cash reserve of \$125,000. The estimated fund balance deficit of \$1 million is also consistent with the cumulative operating deficits when applying the average annual deficit to the first two years of operations.

⁷ According to the Town's 2009 annual report and records, \$68,000 of this fund balance was reserved at the end of 2009.

Consolidated Sewer District — In recent years, the Board has adopted sewer fund budgets that over-estimated expenditures, which has resulted in an excessive fund balance. At December 31, 2009, the unreserved, unappropriated fund balance was \$1,237,666 or 171 percent of the ensuing year’s budgetary appropriations of \$723,180.

Consolidated Sewer District					
Fiscal Year End	Total Unreserved Fund Balance	Unreserved Fund Balance Appropriated	Unreserved Fund Balance Unappropriated (UFBU)	Ensuing Year's Budgeted Appropriations (EYBA)	UFBU As Percent of EYBA
12/31/2006	\$849,080		\$849,080	\$638,993	133%
12/31/2007	\$1,168,387		\$1,168,387	\$658,010	178%
12/31/2008	\$1,530,804		\$1,530,804	\$678,409	226%
12/31/2009	\$1,552,769	\$315,103	\$1,237,666	\$723,180	171%

The consolidated sewer fund is financed primarily with real property taxes. Revenues were relatively close to budgeted amounts over the last four years, but expenditures were significantly below budget from 2006 to 2008. For example, actual expenditures were below budgeted estimates by \$145,995 (21 percent) in 2006, by \$150,535 (24 percent) in 2007 and by \$332,617 (51 percent) in 2008. Expenditures were more in line with the original budgetary appropriations in 2009 only because the Town purchased equipment costing about \$190,000 which was not included in the original budget.

During 2008 and 2009, the Town levied real property taxes of \$633,288 and \$661,271, respectively. The Board’s failure to adopt budgets with realistic estimates for expenditures has caused the Town to levy more real property taxes than needed and to accumulate the excess fund balance. The Board has appropriated \$315,103 of this fund balance in the 2010 budget, which is a positive step towards reducing this excessive fund balance and has resulted in a reduction of the taxes levied (\$403,025) for 2010.

Although the consolidated sewer district has an excessive fund balance, the reported cash in this fund was only about \$224,000 at the end of 2009. This is due to the consolidated sewer district loaning its cash to other funds – reporting a net receivable due from other funds amounting to about \$1.5 million at the end of 2009. A large portion of this relates to loans provided to the other funds, including the police fund which does not currently have the ability to immediately repay the sewer district. If Town officials take corrective action by reducing the excessive fund balance in the consolidated sewer district without also addressing the weak financial position of the police fund, the Board may have to resort to issuing short term borrowing, such as revenue anticipation notes, in order to meet its cash flow needs.

General Part-Town Fund—Prior to our audit period, the general part-town unreserved, unappropriated fund balance has been excessive. At December 31, 2006, it was \$588,962, or 109 percent of the ensuing year’s appropriations of \$541,602. The Board has appropriated fund balance in each of the recent years’ budgets. However, it consistently underestimated revenues each of the last four years by an average of 23 percent. As a result, the Town did not always use the fund balance it appropriated. The fund balance did not decrease significantly until 2009 when the Board made \$228,617 in mid-year interfund transfers to the highway part-town fund. At December 31, 2009, the general part-town unreserved, unappropriated fund balance was still excessive at \$262,225 or 52 percent of ensuing year’s appropriations.

General Part-Town Fund					
Fiscal Year End	Total Unreserved Fund Balance	Unreserved Fund Balance Appropriated	Unreserved Fund Balance Unappropriated (UFBU)	Ensuing Year's Budgeted Appropriations (EYBA)	UFBU As Percent of EYBA
12/31/2006	\$799,713	\$210,751	\$588,962	\$541,602	109%
12/31/2007	\$734,179	\$118,570	\$615,609	\$491,671	125%
12/31/2008	\$672,007	\$156,618	\$515,389	\$550,119	94%
12/31/2009	\$352,225	\$90,000	\$262,225	\$504,871	52%

The general part-town fund is financed primarily with sales tax revenues, fees and permit charges. The Town receives its sales tax distributions from the County and the Board has correctly adopted budgets including those sales tax revenues and eliminating real property taxes in its part-town funds⁸ before applying any sales tax revenues to any town-wide funds. Sales tax revenues in the general part-town fund amounted to \$175,151 in each year of our audit period (2008 and 2009). It is important for Town officials to continue to work towards getting the general part-town fund balance to a reasonable level. This may enable the Town to either apply sales tax revenues to reduce County taxes on the area of the Town outside the villages or to allocate sales tax revenue to other funds, such as the police fund, which could benefit from additional revenue sources.

Highway Town-Wide Fund — At December 31, 2009, the highway town-wide unreserved, unappropriated fund balance was \$112,169 or 1,122 percent of the ensuing year’s budgetary appropriations of \$10,000.

⁸ Because the police fund includes one village, it would not be considered a part-town fund.

Highway Town-Wide Fund					
Fiscal Year End	Total Unreserved Fund Balance	Unreserved Fund Balance Appropriated	Unreserved Fund Balance Unappropriated (UFBU)	Ensuing Year's Budgeted Appropriations (EYBA)	UFBU As Percent of EYBA
12/31/2006	\$112,491		\$112,491	\$36,000	312%
12/31/2007	\$27,407		\$27,407	\$36,000	76%
12/31/2008	\$106,237		\$106,237	\$10,000	1,062%
12/31/2009	\$122,164	\$9,995	\$112,169	\$10,000	1,122%

The highway town-wide fund is financed primarily with sales tax and State aid and is used to account for bridge maintenance. With the exception of \$142,500 in transfers to the capital projects fund in 2007, the highway town-wide fund's annual expenditures ranged from \$200 to \$307, from 2006 to 2009. However, the Board budgeted for and received \$35,500 in sales tax revenue in both 2007 and 2008. The Board reduced sales tax allocations to this fund to \$9,850 in 2009 and \$0 in 2010. However, the fund has accumulated an excessive fund balance over the past few years.

According to the Highway Superintendent, the Town has significant bridge work planned for 2011 and it will need to bond for most of the costs. As Town officials plan for this project, they should evaluate the fund balance needs of the highway town-wide fund and consider using any excess fund balance to finance the cost of the project. A more proper way to accumulate cash for future capital outlays or other allowable purposes would be to establish a reserve fund.

Recommendations

1. The Board should determine the portion of the general town-wide fund balance related to police operations and account for it in the newly-created police fund.
2. The Supervisor should ensure that he or his appointed bookkeeper maintain separate accounting records for the police fund.
3. The Board should develop a comprehensive plan for addressing the deficit fund balance and cash position in the police fund.
4. The Board should strive to adopt structurally balanced budgets in all Town funds and refrain from appropriating fund balance in excess of amounts reasonably expected to be available.
5. The Board should develop and adopt more accurate revenue and expenditure estimates.

6. The Board should monitor operations throughout the year, and ensure that uncommitted appropriations are available before funds are encumbered or expended. The Supervisor should not permit any fund or appropriation account to be overdrawn at any time.
7. The Board should develop a plan to reduce the unreserved, unappropriated fund balance in the consolidated sewer district, general part-town, and highway town-wide funds. Surplus fund balance identified in this report should be used in a manner that benefits the taxpayers such as increasing necessary reserves, financing one-time expenses or reducing property taxes or sales tax allocations.

Receiver of Taxes

The Receiver is responsible for collecting, accurately reporting, timely depositing and promptly remitting property tax and penalty revenues to the Town, County, and school districts, as appropriate. The Supervisor and the Board are responsible for the management and oversight of Town functions. This responsibility includes establishing and maintaining a good system of internal controls capable of providing reasonable assurance that all monies collected by Town personnel, including the Receiver, are in the proper amount. Such monies must also be recorded accurately, deposited timely and disbursed promptly to the appropriate parties. The Board's oversight of the financial operations of the Receiver's office should include establishing policies and procedures for the collection and distribution of taxes and fees, ensuring that the Receiver maintains complete and accurate financial records, requiring the Receiver to prepare periodic financial reports, and providing for an audit of the Receiver's books and records at least once a year, as required by Town Law.

We found weak internal controls over the Receiver's collection activities and inadequate Town oversight of the Receiver's performance. As a result, a \$1,000 bank error occurred and went undetected, deposits were not made timely and intact, penalties and interest were not remitted to the Supervisor in a timely manner, and the Receiver failed to collect \$2,564 in penalties, including \$182 in penalties on her own late tax payments.

Recordkeeping

Town Law requires that the receiver must enter, daily, in a suitable book or books a record of all monies received. Good management practices require that accounting records are accurate and complete to identify all receipts and disbursements and that running cash balances are maintained and periodically reconciled with adjusted bank account balances. The receiver must immediately record the date and amount paid for all sources of funds received, including any late payment penalties and returned check fees.

We found significant deficiencies in the Receiver's recordkeeping. Although the Receiver maintains computerized cash receipts records and she records check disbursements in her checkbook register, she does not reconcile the bank account or keep a running book balance of what amounts should be in the bank account at any point in time. In addition, we found that the Receiver's reports did not always agree with the actual deposits made and that she did not record or deposit any returned check fees during our audit period. For example:

- The 2008 school tax collection period net deposits⁹ were \$1,000 less than the Receiver's cash receipt reports. We identified a \$1,000 bank error that accounts for this difference, which was not detected or corrected by the Receiver until we brought it to her attention.¹⁰
- The 2009 school tax collection period net deposits were \$1,997 higher than the Receiver's cash receipt reports. We found that she did not record \$1,997 in penalties that she had received and deposited for two taxpayers.
- The Receiver told us that she collects a \$30 fee for returned checks, but she does not record or otherwise track the fees in her records. Although the bank returned 21 checks for insufficient funds during 2008 and 2009, our comparison of bank deposits with cash receipt records disclosed that all deposits were attributable to taxes, penalties, collection fees, bank interest, and payments in lieu of taxes and they did not include returned check fees collected by the Receiver. Had the Receiver deposited the fees for all the returned checks during the period, the deposits should have been \$630 greater than what the Receiver actually deposited.¹¹
- Because the Receiver does not keep track of all deposits and does not reconcile bank activity, she failed to remit all penalties and interest due to the Town. The Receiver's December 2008 payment to the Supervisor for school tax penalties and interest was short by \$587 and the January 2010 payment of 2009 Town/County and school tax penalties and interest was short by \$191. These funds remained in the Receiver's bank account as of December 31, 2009. In addition, we found \$145 in unidentified funds in her bank account at this date, which likely should have been turned over to the Town.

When the Receiver does not maintain complete and accurate records of all receipts and disbursements and reconcile the records with bank account activity and balances, there is an increased risk that errors or irregularities could occur and go undetected.

Penalties

The Receiver is responsible for collecting, accurately reporting, and promptly remitting penalty revenues to the Town, as appropriate. Our initial assessment of tax payments made during the penalty period

⁹ The net deposits are equal to the total bank deposits less any refunds for duplicate payments or overpayments, and less bank charge-backs for checks returned for insufficient funds.

¹⁰ The bank corrected the error in May 2010.

¹¹ The bank does not charge the Receiver a fee for returned checks.

indicated that the Receiver did not collect, record, or deposit all applicable penalties. We found instances where penalties were not charged or where penalties were charged for less than the full amount. In three out of the four tax collection periods during our audit period, the Receiver paid her own property tax bill late without penalties, which would have amounted to \$182.

Due to the discrepancies found with the collection of penalties, we sent confirmation letters to 89 taxpayers who paid during the penalty period and whose paid amount was less than we calculated with penalties attached.¹² Of the 89 taxpayers, 45 taxpayers responded that their payment agreed with the Receiver's records.¹³

In total, we calculated penalties for the 89 taxpayers at \$2,927, but the Receiver only charged penalties of \$545. Therefore, she forgave \$2,382 in penalties. The Receiver told us that she sympathized with some taxpayers who could not afford to pay the penalties and indicated that she did not want to send late payments back that did not include the penalties. The Receiver could not provide us with a valid reason why she did not pay her own penalties. Because the Receiver did not collect all penalties due, the Town did not receive \$2,564 in revenue to which it was entitled.

Deposits and Remittances of Collections

Town Law¹⁴ requires the Receiver to deposit monies within 24 hours of receipt. Good business practices require that deposits of such collections be made intact.¹⁵ The Receiver is also required to remit all monies collected on the Town's behalf to the Supervisor no later than the 15th day of the month following the month monies are received.

The Receiver told us that she makes deposits daily during the penalty-free periods, but only twice a week during the penalty periods because she was not in the office as much during that time. We reviewed a sample of deposits totaling \$5.7 million from 2009 tax collections and found \$2.3 million (40 percent) were not deposited within 24 hours. However, most of the deposited were made within two to three days.

¹² We selected only tax payments from the Receiver's records with payment dates after the seventh of the month following the penalty-free period to allow for postmarks during the penalty-free period. Any payments after the seventh were considered to be paid late.

¹³ Thirty-two taxpayers did not respond to the confirmation letter, 10 letters were returned by the post office and two taxpayers agreed with the payment amounts but disagreed with date of the payments.

¹⁴ Town Law Section 37

¹⁵ Depositing intact means that moneys are not split or grouped into lump sum amounts, but are deposited in the same amounts as received.

We also found that numerous deposits were not intact. The Receiver did not have a system in place to ensure that daily cash receipts equaled daily cash deposits. She told us that deposits were not intact because she routinely keeps cash-on-hand for a change fund. In reviewing deposits, we found that currency deposits were usually rounded to the nearest \$250 and that she does not deposit coins, except for the last deposit of each tax collection period. At the beginning of the collection period, she keeps money out of the first cash deposit for making change, and deposits the remaining funds. This change fund amount fluctuates each day depending on the currency and coin receipts for that day, resulting in a difference between what was deposited and what was recorded as received in the computerized records.

Further, the Receiver did not remit all monies to the Supervisor in a timely manner. Although the Receiver made timely remittances of the base tax payments, she did not remit penalties and bank account interest on a timely basis. In September 2008, she remitted the 2007 school tax penalties and interest amounting to \$28,817 (10 months late) along with the 2008 Town/County tax penalties and interest amounting to \$7,898 (five months late). She remitted \$31,654 for 2008 school tax penalties and interest in December 2008, which was nearly two months late. Lastly, she remitted \$28,394 in interest and penalties related to the 2009 Town/County and School tax collection periods in January 2010, which was about nine months late for the Town/County collections and two months late for the school collections.

To ensure the Receiver is remitting funds to the Supervisor in compliance with the timeframes established by Town Law, the Board must have an established control function, such as monthly reporting of collections and remittances, to verify that remittances were made in a timely manner. However, the Board required no reporting from the Receiver and it did not monitor the timeliness of remittances.

When funds are not deposited and remitted to the appropriate party in a timely manner, there is a risk for loss through theft or misuse. In addition, when deposited amounts do not agree with the records of monies collected and deposited, there is an increased risk for errors.

Board Oversight

The Board is responsible for the overall supervision of the Town's financial affairs and for safeguarding its resources. Town Law¹⁶ requires that town boards annually audit the records and reports of any town officer or employee who received and disbursed moneys on behalf of the town in the preceding year, or hire an independent

¹⁶ Town Law Section 123

accountant for that purpose. In conducting its reviews, it is important for the Board to determine whether the Town has effective procedures in place that are sufficient to ensure that the Receiver properly accounts for, records, and deposits moneys collected on a timely basis; accurately maintains records; and accurately completes reports on time. While the Board is required to audit the records of the Receiver at least annually, more frequent monitoring of the Receiver's financial activities could help reduce the risk that errors and/or irregularities will occur and go undetected.

We found that the Board's involvement in and scrutiny of the Receiver's financial activities and operations was inadequate. The Board did not establish adequate policies for the collection and distribution of tax and fee monies, or develop and implement related control procedures to monitor the Receiver's operations. Although the Town's external audit included a review of the Receiver's 2009 records, we found no indication the Board implemented the auditor's recommendation to provide appropriate financial oversight of the Receiver. The Board's lack of involvement in, and oversight of, the Receiver's performance, creates an environment in which errors and irregularities could occur without detection.

Recommendations

8. The Board should adopt policies and develop procedures that detail the collection activities the Receiver is required to follow. These policies and procedures should include, but not be limited to, requiring the Receiver to:
 - Collect, record and deposit taxes, fees and penalties, as required by law
 - Remit collections to the Supervisor, County and school districts within the stipulated timeframes
 - Date-stamp and accurately record all receipts
 - Maintain a daily cashbook of all cash receipts and disbursements.
9. The Receiver should record all funds collected, including returned check fees; reconcile the bank account monthly; collect, record and remit late fee penalties for all late tax payments, including her own; deposit all collections intact and within 24 hours of receipt; and remit collections to the Town, County and school districts in a timely manner.
10. The Receiver should remit any remaining unpaid penalties, interest and unidentified balances to the Town Supervisor.

11. The Board should require that the Receiver submit monthly reports of all monies collected and remitted.
12. The Board should provide adequate management oversight of the Receiver's performance.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

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

TOWN OF NEW HARTFORD

PATRICK M. TYKSINSKI
SUPERVISOR



BUTLER MEMORIAL HALL
NEW HARTFORD, NY 13413
Phone: (315) 733-7500, Ext. 2331

OFFICE OF THE SUPERVISOR

Rebecca A. Wilcox, CPA
Chief Examiner
Office of the Comptroller
110 State Street
Albany, New York 12236

Dear Ms. Wilcox:

I am in receipt of the preliminary audit report for the Town of New Hartford, covering the years January 1, 2008 to December 31, 2009. The report contains several items, which I was aware of prior to taking office, on January 1, 2010, specifically the financial condition of the Town.

Since taking office I have addressed almost all of the points raised in the report. Although I was not in office during the period covered by this audit I have, during this past year, committed a considerable amount of time reviewing various systems, policies and procedures within the Town. This has culminated in several changes being implemented both from the accounting and finance, and management areas. Many of the changes already implemented were part of your report. As of the date of this response all items noted in your report have been addressed and acted upon.

Regarding the financial condition of the Town I gave a 'State of the Town' address in March of 2010 in which I addressed the decline in fund balances and the reasons why that occurred. I also provided a plan on how the Town would recover from its fiscal distress. Now, as we are entering into 2011 many of the items stated in my March address have been completed. I am confident that this will provide relief to our fiscal problems and create a healthier and stronger financial base for the future.

Your report was thoroughly reviewed and we found the recommendations to be comparable to the direction already initiated by this Town Government. As stated in our Corrective Action Plan (CAP) all recommendations have been recognized as being consistent with our goals and have been put into place.

Sincerely,

Patrick M. Tyksinski, Supervisor
Town of New Hartford
January 13, 2011

APPENDIX B

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 and monitor the Town's financial condition. 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, purchasing, payroll and personal services, information technology and Town Clerk, Tax Collector and Justice Court operations. During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents, such as Town policies, Board minutes, and financial records and reports.

After reviewing the information gathered during our initial assessment, we decided upon the reported objectives and scope by selecting for audit those areas most at risk. We selected financial condition and tax collection activities for further audit testing. Our examination included the following:

- We reviewed audited financial statements for the fiscal years ended December 31, 2006 through December 31, 2008 and the Town's accounting records and reports for the period January 1, 2009 to December 31, 2009.
- We analyzed changes in fund balance to determine fund balance trends and evaluated major factors contributing to operating deficits and surpluses.
- We reviewed interfund advances to determine whether the borrowing funds have sufficient funds to repay them.
- We compared budget estimates to actual revenues and expenditures to determine if estimates were reasonable.
- We interviewed Town officials and reviewed policies and procedures and prior audits.
- We compared bank statement activity to the Receiver's tax collection system reports and to settlements with the County and school districts.
- We traced the Receiver's deposits to determine whether they were deposited intact and in a timely manner.
- We reviewed the Receiver's bank statements to verify that withdrawals were appropriate.
- We analyzed late payment penalties for appropriateness and surveyed taxpayers about the payments made.
- We reviewed the Receiver's remittances to the Town, County and school districts to verify they were timely and in the appropriate amounts.

We conducted our 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.

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