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May 17, 2013

Mr. Eric Shultz, President  
Members of the Board of Trustees of the Freeholders and Commonalty  
of the Town of Southampton  
116 Hampton Road  
Southampton, NY 11968

Report Number: 2013M-39

Dear Mr. Shultz and Trustees:

One of the Office of the State Comptroller's primary objectives is to identify areas where local government officials can improve their operations and provide guidance and services that will assist them in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage local government officials to reduce costs, improve service delivery, and account for and protect their entity's assets.

In accordance with these goals, we conducted an audit of the Board of Trustees of the Freeholders and Commonalty of the Town of Southampton (Trustees), which addressed the following question:

- Are the Trustees effectively monitoring cash management to adequately safeguard assets?

We discussed the audit results with the Trustees and considered their comments in preparing this report. The Trustees' response is attached to this report in Appendix A. Appendix B includes our comment on the Trustees' response.

### **Summary of Findings**

The Trustees need to improve their monitoring of cash management. The Trustees have not adopted an investment policy, which resulted in excess cash balances of \$38,097 that were not covered by the Federal Deposit Insurance Corporation (FDIC) insurance. Additionally, the Trustees did not develop procedures to ensure that deposits were made timely and intact, resulting in cash receipts, totaling \$13,322, being deposited anywhere from 11 days to 21 days after receipt. Although we found all deposits to be intact, the failure to deposit receipts in a timely manner increases the risk that moneys received will not be properly accounted for, that moneys could be lost or stolen, or that the Trustees will lose interest that could have been earned if moneys had been deposited timely.

## **Background and Methodology**

The Dongan Patent established the Board of Trustees of the Freeholders and Commonalty of the Town of Southampton in 1686. The Patent granted the Trustees title and authority to manage approximately 25,000 acres of underwater land, rights of ways to the water, marshland, and common areas located in the Town of Southampton, Suffolk County (Town). The Trustees comprise five elected members and are separate from, and in many respects independent of, the Town Board.<sup>1</sup> The Trustees' primary function is to protect, preserve, and regulate the land and water ways that are under the Trustees' control.

The Board of Trustees is currently accounted for as a blended component unit of the Town and reported as a special revenue fund in the Town's financial statements. The Town approves the hiring of certain employees and records the compensation of most employees, as well as all of the Trustees' capital projects, on the Town's books. However, the Trustees are responsible for the overall financial management of their own operations.

The Trustees' operating expenditures for 2012 totaled \$384,930. These expenditures were funded primarily through various permit fees, including building permits, mooring permits, shellfish licenses, beach parking and boat ramp fees, and permits for vehicles to access the beach.

We examined the Trustees' cash management procedures for the period January 1, 2012, to January 9, 2013. We interviewed Trustees, and reviewed financial records and the Trustees' meeting minutes. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## **Audit Results**

One of the most important functions of a board responsible for managing public funds is to develop and formally adopt sound cash management policies, which ensure adequate cash availability, proper safeguarding of assets, and maximum investment yield. These policies establish control procedures and other requirements for the daily management of an entity's financial affairs and operations. Every policy adopted by the board should be customized to fit its own unique needs, reviewed, and updated periodically, as needed. There are several policies that the Trustees should develop, adopt, and periodically review, including an investment policy. Providing for sound cash management will assure that investments are optimized for the best possible return for stakeholders.

The Trustees are also responsible for establishing internal controls to ensure that the amounts collected are deposited in a timely manner and intact.<sup>2</sup> Generally, it is best that all moneys

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<sup>1</sup> The Town Board is responsible for the Town's overall operations. The Trustees' responsibility is limited to administering the resources under its control.

<sup>2</sup> Deposited in the same form as they were collected (e.g., cash, checks, or money orders)

received by or on behalf of the Trustees be deposited into an official bank account as soon as possible, but no later than 10 days after receipt. This timely and intact depositing of receipts helps prevent errors and irregularities. Delays in depositing cash payments tend to misrepresent the actual flow of cash in the financial records and increase the risk of loss or misuse of funds.

The Trustees need to improve their monitoring of cash management. The Trustees have not adopted an investment policy. For 2012, the Trustees had eight bank accounts, seven of which were interest-bearing accounts, at five separate banking institutions. The Treasurer for the Trustees told us that the Trustees spread their deposits among various banks because they have historically expressed a desire to keep bank balances under the FDIC insurance limit, which insures balances of up to \$250,000. However, as of December 31, 2012, all funds were not fully covered by FDIC insurance. The Trustees held cash balances totaling \$38,097 in excess of the FDIC coverage.

Maintaining an unnecessary number of bank accounts can result in added costs and can be time consuming to control. Also, it can result in lost interest and/or reduced interest due to smaller amounts being invested separately. Multiple accounts can also make it more difficult to forecast and manage cash flow. By consolidating bank accounts to the extent possible, the Trustees would be able to better determine the moneys available for investment and increase the likelihood that interest earnings on moneys remaining on deposit can be maximized by facilitating the pooling of cash.

Without the adoption of a comprehensive investment policy, requiring FDIC coverage or other security for bank deposits, the Trustees' money may be exposed to unnecessary risk of loss. In addition, the Trustees do not have reasonable assurance that their intentions for investing funds are met or that investments are made at their maximum potential.

The Trustees also did not establish internal controls to ensure that the amounts collected are deposited in a timely manner and intact. Due to this weakness, we examined deposits during a three-day period that exceeded \$5,000. For the three-day period, deposits received and recorded in the cash register were comprised of 1,202 cash receipts totaling \$21,988.<sup>3</sup> We found that 711 of the receipts deposited, totaling \$13,322, were deposited between 11 days to 21 days after receipt. Although we found all deposits to be intact, the failure to deposit Trustee receipts within the prescribed time limit increases the risk that moneys received will not be properly accounted for, that moneys could be lost or stolen, or that the Trustees will lose interest that could have been earned if moneys had been deposited timely.

## **Recommendations**

1. The Trustees should adopt an investment policy setting forth the parameters under which money can be invested, and requiring FDIC coverage or other security for bank accounts.

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<sup>3</sup> The following payments are collected, recorded, and stored in the cash register in the Trustees' office: various boat ramp fees, 4X4 beach permits, guides' licenses, and photocopies. All other fees collected are recorded in a spreadsheet and stored in the safe before deposit. We determined that cash register receipts were a high risk because they consisted of the most cash.

2. The Trustees should ensure that the number of official bank accounts is consolidated to an acceptable and practicable minimum.
3. The Trustees should develop procedures to address the timeliness of depositing cash receipts.

The Trustees have 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. 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 Trustees to make this plan available for public review in the Clerk's office.

Sincerely,

Andrew A. SanFilippo  
Executive Deputy Comptroller  
Office of State and Local Government  
Accountability

**APPENDIX A**

**RESPONSE FROM TRUSTEES**

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

**BOARD OF TRUSTEES**  
OF THE FREEHOLDERS AND COMMONALTY OF THE  
**TOWN OF SOUTHAMPTON**

ERIC SHULTZ  
**PRESIDENT**  
EAST QUOGUE

FREDERICK HAVEMEYER  
**SECRETARY/TREASURER**  
BRIDGEHAMPTON



116 HAMPTON ROAD  
SOUTHAMPTON, NEW YORK 11968  
PHONE: 631 287-5717 FAX: 631 287-5723

JON S. SEMLEAR  
SAG HARBOR

WILLIAM PELL IV  
WESTHAMPTON

EDWARD J. WARNER JR.  
HAMPTON BAYS

May 2, 2013

To Whom It May Concern:

The Trustees of the Freeholders and Commonalty of the Town of Southampton have reviewed the Comptroller's draft audit of the Trustees' management of their finances; express their appreciation for the time and effort devoted to that audit by the Comptroller's office, which we believe will assure the public that that review was thorough and complete. We wish to note that the Comptroller's audit established that all of the funds and expenditures of the Trustees have been, and continue to be, fully accounted for.

See  
Note 1  
Page 9

We also briefly address several suggestions made by the Comptroller in his audit:

1. Lack of an Investment policy and the maintenance of multiple bank accounts. The Trustees do not, in the strict meaning of the word, "invest" the funds resulting from Trust activities (for example, in instruments that would produce significant income), as the cash flow needs for the various projects being undertaken at any particular time preclude placing Trust funds in a form where they would not be readily available for use in accordance with the purposes of the Dongan Trust. We have, however, long followed the practice of depositing Trust funds among a number of bank accounts in banking institutions approved by the Town Board, in order to avoid potential loss of funds exceeding the FDIC insurance applicable to each account. Those accounts have yielded minimal interest income. As a result of a suggestion recently made by Nawrocki & Smith, CPAs, the Town's outside auditors, I introduced a resolution dated March 18, 2013 (see enclosed minutes) to establish a single interest-bearing "collateralized" account for all of the Trustee funds. This resolution was unanimously adopted by the Trustees. Thereafter, on April 1, 2013, a discussion took place at a Trustees' meeting regarding the procedures that would need to be followed in closing the existing accounts and transferring Trustee funds to a single collateralized account, and a resolution was adopted authorizing the closure of all existing accounts and the transferring of the funds formerly on deposit in other accounts (See minutes attached). Since the April 1 discussion, we have been discussing the accounting and legal issues

arising from the proposed transfers with the Trustees' outside accountants, Jones & Little, CPA, and the Southampton Town Attorney's office. We are in the process seeking advice as to whether the particular account agreement thereafter offered to us by Chase Bank is the most advantageous available on the market. We anticipate that within the next 30 to 60 days a collateralized account will be established, all of the Trustees' present accounts will be closed, and the funds will be transferred into the new account. The Trustees would have taken action much earlier, had they been sooner advised of the existence of such accounts by the Town's auditors.

2. All moneys received should be deposited in timely fashion. We agree with this premise, and there has long been a standing office directive to deposit cash in the appropriate bank accounts as often as practical. Some of the accounts only receive funds during an extremely limited time due to a seasonal nature. After receiving the Comptroller's draft report, we reviewed the deposit records for the specific periods during which the Comptroller found delayed deposits. We believe that the retention of cash on premises during these several periods were anomalies, and that during one cited 14-day period, in which we experienced heavy customer demand, the staff on duty at the Trustees' office was reduced to one person, due to illness on the part of the others. After staffing levels returned to normal, deposits were made over the next consecutive three day period. It should be noted that any cash collected and not deposited during a particular day was transferred at the end of the day to the locked office safe on premises. Since a collateralized account has been established with one bank, it will enable the office staff to strictly adhere to a new policy which states that all funds shall be deposited on Wednesday and Friday of each week and more frequently if cash receipts exceed 1000.00
3. As a general comment, we note and appreciate the Comptroller's acknowledgement of the unique history and legal structure surrounding the creation and activity of the Board of Trustees, and the Comptroller's recognition that the Trustees' activities are not subject to certain municipal law requirements that are imposed on departments and other subdivisions of the Town.

Sincerely,

Eric Shultz  
President

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**May 2, 2013**

**Resolution from March 18<sup>th</sup>, 2013 Trustee's Minutes**

A motion was made by Trustee Shultz, to open up a fiduciary account in Chase Bank, which is an interest bearing collateralized account, as per the NYS audit. Trustee Havemeyer seconded and the motion was duly carried.

**Resolution from April 1<sup>st</sup>, 2013 Trustee's Minutes**

A motion was made by Mr. Shultz and seconded by Mr. Havemeyer and duly carried to close all other accounts and transfer them all to one Chase fiduciary account.

*Ed. - MAY 3, 2013*



## **APPENDIX B**

### **OSC COMMENT ON THE TRUSTEES' RESPONSE**

#### Note 1

Since this audit, like any audit, involved the examination of a sample of transactions, it is incorrect to state that the audit established that all funds and expenditures have been fully accounted for. After our initial risk assessment where we gained an understanding of the Trustees' operations and internal controls, we determined that the area subject to the highest risk was cash management procedures; therefore, our audit looked at only this area. Our audit procedures included reviewing records and reports relating to the Trustees' cash management procedures, and examining a sample of cash receipts and deposits to gain reasonable assurance that the Trustees' cash management procedures were adequately safeguarding their assets.