



# Village of Liberty

## Financial Condition

### Report of Examination

Period Covered:

June 1, 2011 — May 31, 2013

2013M-109



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

October 2013

Dear Village 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 Village 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 Village of Liberty, entitled Financial Condition. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

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

# Introduction

## Background

The Village of Liberty (Village) is located in Sullivan County and has a population of 4,392. The Village is governed by an elected five-member Village Board (Board) comprising the Village Mayor and four Trustees. The Board is the legislative body that is responsible for the general management and control of the Village's financial affairs.

The Village offers a variety of services to its residents, including general administration, police protection, water and sewer services, street maintenance, and refuse collection. The Village's 2013-14 budgeted appropriations for all operating funds totaled approximately \$6.4 million, which were funded primarily with real property taxes, refuse and garbage assessments, water sales, sewer rents, and State aid.

The Mayor is the Village's chief executive officer. The Village Clerk-Treasurer (Clerk-Treasurer) is the chief fiscal officer and is responsible for the Village's accounting records and reports. The Board is responsible for fiscal oversight which includes ensuring that the Village maintains an adequate amount of fund balance.

## Objective

The objective of our audit was to review the Village's financial condition. Our audit addressed the following related question:

- Did the Board adopt adequate budgets and monitor operations?

## Scope and Methodology

We interviewed appropriate Village officials, examined financial records, and reviewed Village procedures for the period June 1, 2011, to May 31, 2013. To analyze the Village's historical financial condition, we extended our audit scope period back to the 2007-08 fiscal year.

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 D of this report.

## Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix B, have been considered in preparing this report. Except as specified in Appendix B, Village officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix C includes our comments on issues raised in the Village's response letter.

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 Village Clerk's office.

## Financial Condition

It is the Board's responsibility to adopt and monitor realistic and balanced annual budgets. When the Board determines that some amount of the real property tax levy may not be collectible, it should make necessary adjustments to the levy each year to account for the uncollectible amounts. It is also important that the Board develop long-term financial and capital plans to ensure that the financing of large anticipated expenditures is analyzed and documented.

The Board's adopted budgets were based on accounting records with discrepancies because the Clerk-Treasurer did not maintain the Village's accounting records in an accurate manner. As a result, in two of the last five fiscal years, Village officials appropriated more fund balance than was available in the general fund. In addition, the Board arrived at a tax levy it deemed necessary, but the Village rarely receives that total amount, making it necessary to use more fund balance than planned to offset that shortfall. However, the Board did not consider the affect of the unlikely collection of the full levy on its adopted budgets. Also, the Board has not developed long-term funding plans to address the Village's deteriorating financial position and capital assets.

### Budgeting Practices

It is important for the Board to adopt realistic budgets and monitor the actual results and budgeted estimates of each fund regularly throughout the year. Based on its observations and future expectations, the Board must make revisions to its budgetary estimates to ensure the Village meets its revenue projections and does not expend moneys beyond the level of appropriations. It is important that the financial information that the Board uses to monitor and modify the budget is accurate. Because the Clerk-Treasurer is responsible for the accuracy of the Village's accounting records and reports, it is important that she have necessary training in municipal accounting to help her accurately maintain the Village's records and reports.

The Board did not adopt realistic budgets. In two of the last five fiscal years, Village officials appropriated more fund balance than was actually available in the general fund. For the 2009-10 budget, the Board appropriated \$157,769 of fund balance to help fund the budget, but had only \$147,130 of unassigned fund balance in the general fund at the end of the 2008-09 fiscal year. As a result, Village officials appropriated \$10,639 of fund balance that they did not have. For the 2011-12 budget, Village officials appropriated \$22,585 more in fund balance than they actually had on hand at the end of the 2010-11 fiscal year (Table 1). Furthermore, Village officials appropriated more fund

balance than was actually available in the sewer fund by \$10,000 for the 2012-13 fiscal year and in the sanitation fund by \$34,000 for the 2013-14 fiscal year.

**Table 1: General Fund, Results of Operations, and Fund Balance**

	2008-09	2009-10	2010-11	2011-12	2012-13 <sup>a</sup>
Beginning fund balance	\$439,350	\$158,052	\$178,212	\$38,748	\$22,663
Operating surplus/(deficit)	(\$281,298)	\$20,166	(\$161,023)	(\$16,085)	\$112,455
Fund balance reported at year-end <sup>b</sup>	\$147,130	\$169,923	\$37,415	\$21,334	\$133,787
Appropriated fund balance for the ensuing year	\$157,769	\$0	\$60,000	\$0	\$40,000
Unexpended surplus/(deficit) funds <sup>c</sup> at year end	(\$10,639)	\$169,923	(\$22,585)	\$21,334	\$93,787

<sup>a</sup> Because the 2012-13 annual financial report had not yet been filed with the OSC at the end of our fieldwork, we have not determined the reliability of these figures reported.

<sup>b</sup> Less restricted fund balance and added prior period adjustments

<sup>c</sup> 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).

Each of these fund balance over-appropriations occurred because the Clerk-Treasurer did not maintain accurate and timely accounting records<sup>1</sup> and, therefore, could not provide the Board with accurate numbers on which to base fund balance projections. Instead, the Clerk-Treasurer referred the Board to the prior year’s audited financial statements, without considering the current financial activity’s effect on fund balance. Because the external audit is not available until well after the current year’s budget must be adopted, the Board approved budgets with estimated fund balance amounts that were based on the prior years’ discrepancies and/or amounts that were more than a year old. Without accurate and current financial information, the Board cannot develop sound budgets or effectively monitor budgets during the fiscal year.

The Board approves budget modifications throughout the year based on monthly reports provided by the Clerk-Treasurer that compare the budget estimates to the actual financial activity. However, the information in these monthly reports is often inaccurate and needs

<sup>1</sup> According to the Clerk-Treasurer and external auditor, the Village’s financial accounting system does not allow adjustments to be made once a given month is “closed out,” making it difficult for the Clerk-Treasurer to make appropriate corrections to the accounting records.



to be adjusted the following month. Although the Clerk-Treasurer attempted to correct the errors as she detected them, she did not make the corrections in a timely manner. She made the corrections after each month's report had already been presented to the Board. In addition, during our review of the external auditor's recommended adjustments each year, we found that either the Clerk-Treasurer made additional errors beyond the ones she was able to correct on her own, or that her attempts to correct her errors were wrong.

Without accurate accounting records, the Board was unable to develop adequate fund balance projections, effectively monitor the Village's financial condition, or assess the adequacy of budget estimates. These factors, combined with low real property tax collections, contribute to the fiscal stress that the Village may be experiencing.

## **Tax Collections**

Many counties across the State make their component municipalities "whole" for unpaid property taxes levied on property located within county limits. For example, if a village does not receive all property taxes due in one fiscal year, then the county makes up the difference for the village and then adds the remainder unpaid amounts onto the following year's county tax bill for the residents who did not pay their property taxes in the previous year. However, Sullivan County, in which the Village is located, does not make its component municipalities whole for unpaid property taxes. In this case, it is important for Village officials to make necessary adjustments to the levy each year to ensure that the full property tax levy is collected.<sup>2</sup>

The Board adopted budgets that did not provide for the low real property tax collection rate. The Clerk-Treasurer and Board based their calculation of the necessary real property tax levy on their estimates for appropriations, revenues (excluding real property taxes), and what they believed was an appropriate amount of unexpended surplus fund balance. However, the Board did not consider the impact of the unlikely collection of the full levy.<sup>3</sup> The Village's collection rate over the last four years was 86 percent, as indicated in Table 2.

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<sup>2</sup> These adjustments are known as a tax overlay, which is the amount of taxes estimated to be uncollected and unavailable to finance budgetary appropriations, less the allowance for uncollectible taxes and estimated availability of prior year taxes. Adding the tax overlay to the original calculated amount that is needed to operate the Village determines the actual amount of the current year's tax levy.

<sup>3</sup> For the 2013-14 fiscal year, the Board could have increased the Village's real property tax levy by approximately \$100,000 before reaching its real property tax cap limit.



<b>Table 2: Real Property Tax Collection Rates</b>					
	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>Totals</b>
Tax levy	\$2,782,711	\$2,940,753	\$2,894,963	\$2,915,989	\$11,534,416
Outstanding taxes at year-end from current year levy	\$330,843	\$577,891	\$444,583	\$308,564	\$1,661,881
Current year collection rate	88%	80%	85%	89%	86%

While the Village was not able to collect more than \$1.6 million of the aggregate levies within their respective current years, it did receive approximately \$1.1 million between 2009-10 and 2012-13 in overdue taxes from various prior years.<sup>4</sup> As of August 2013, a total of \$605,613 in overdue taxes still remains outstanding from all prior years. Even with the cash flow from collections of prior years' overdue taxes, the Village still received on average only 95 percent of its intended tax revenues over the last four years.

The former Mayor and Board recognized the critical collection issues the Village has with real property taxes, but the former Mayor told us he did not prefer to make increases/adjustments to the tax levy as an additional financing option. The Board's continual use of fund balance that may not be available, combined with the low collection rates and erroneous financial information, could have an impact on the Village's financial condition and lead to potential fiscal stress.

## Long-Term Planning

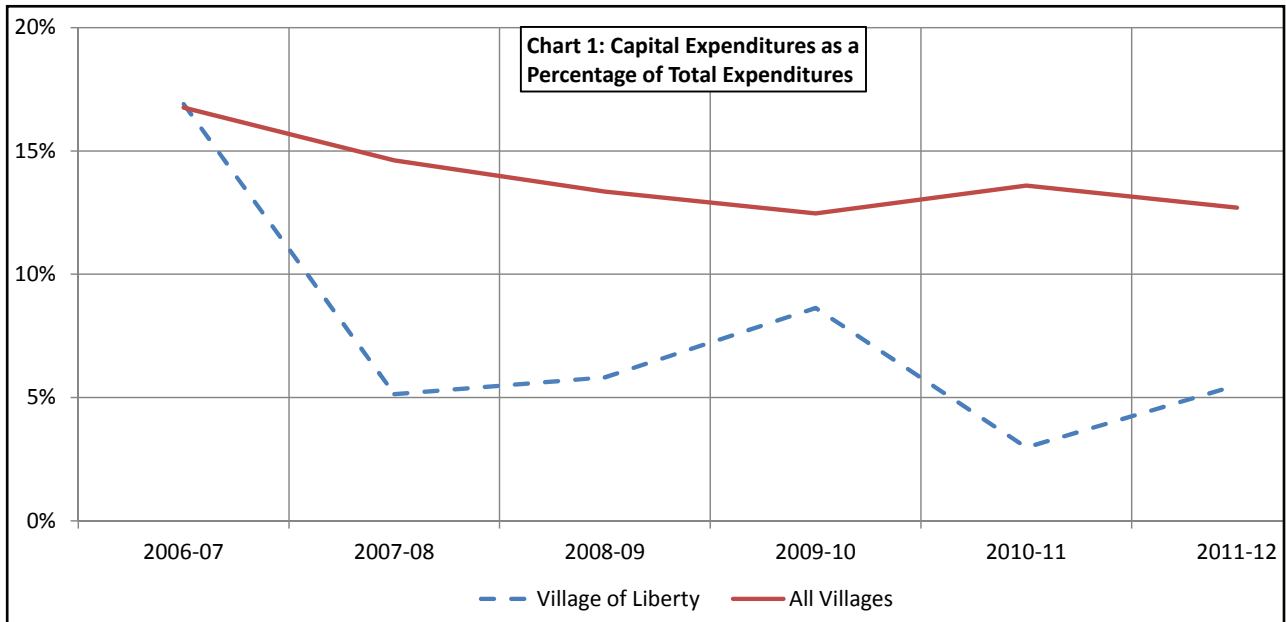
An important oversight responsibility of the Board is to plan for the future by setting adequate long-term priorities and goals. To address this responsibility, it is important for Village officials to develop comprehensive, multi-year financial and capital plans to estimate the future costs of ongoing services and future capital needs. Effective multi-year plans project operating and capital needs and financing sources over a three-to-five year period and allow Village officials to identify developing revenue and expenditure trends, set long-term priorities and goals, and avoid large fluctuations in tax rates. Also, the Board must monitor and update long-term financial plans on an ongoing basis to ensure that its decisions are guided by the most accurate information available.

The Board did not develop a comprehensive, multi-year financial and capital plan, including long-term funding, and it did not have any other mechanism in place to adequately address the Village's long-term operational and capital needs. Such plans are an important tool for the Board to use to address the deterioration of the Village's financial condition and capital infrastructure.

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<sup>4</sup> This is the base amount of overdue taxes collected, excluding interest and penalties.

To alleviate the Village's potential fiscal stress, the Board made reductions to various Village services and froze the pay rates of certain employees. The Board also has deferred critical infrastructure maintenance, which has caused the Village's infrastructure to be in need of significant repair. In comparison, the Village has spent far less than other villages in the State on capital expenditures, as shown in Chart 1:



For example, our tour of a four-mile loop of Village streets near the Village hall disclosed major cracking, surface distortions, extensive potholes, and lane rutting; all of these streets were in significant need of repair.<sup>5</sup> We also found the Village's buildings in need of repair.

Department heads told us that there were not sufficient resources to consider replacing equipment and vehicles, so they do their best to maintain and fix them. However, eventually, even their best efforts will not prevent the need for replacement. Also, Village employees have had numerous vehicular and heavy equipment-related accidents each year that, when added to routine wear and damage, shortens the useful life of these vehicles and equipment.

The need to make essential repairs and replacements to infrastructure is a significant liability which is not included in the financial statements. Nevertheless, at some point repairs will have to be addressed at a substantial cost to the Village.<sup>6</sup>

<sup>5</sup> According to the current Mayor, Village officials have recently repaired various Village roads.

<sup>6</sup> Refer to Appendix A to view photographs of a sample of the needed repairs to Village streets and buildings.

Eventually, the combination of spending moneys that are unavailable, going without needed tax revenue, being unable to rely on the accuracy of the accounting records, and needing wide-scale replacement of expensive vehicles and equipment and renovation to Village buildings will cause a critical financial situation. It is imperative for the Board to take immediate action to avoid impending fiscal stress.

## **Recommendations**

1. The Board should only appropriate fund balance that is available for use.
2. The Clerk-Treasurer should ensure that her records are accurate for the Board to use as a sound basis for key financial decisions. The Board should ensure that the Clerk-Treasurer has the necessary training in municipal accounting to help her accurately maintain the Village's records and reports.
3. The Board should make necessary adjustments to the levy each year, within the real property tax cap limit, to offset the expected rate of uncollectible taxes.
4. The Board should develop long-term funding for financial and capital plans and consider capital needs in its current estimates.

## APPENDIX A

### VILLAGE STREET AND BUILDING CONDITIONS

Cracks in Charles Street



Pot holes in Main Street





Cracks and pot holes in West Lake Street



Pot holes in Yaun Avenue



Hole in restroom floor covered by a piece of wood in the Department of Public Works building



Continuous leak in the ceiling of the sewer plant



## **APPENDIX B**

### **RESPONSE FROM LOCAL OFFICIALS**

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



September 24, 2013



Division of Local Government and School Accountability  
Office of the State Comptroller  
State Office Building Room 1702  
44 Hawley Street  
Binghamton, NY 13901-4417

Re: Financial Condition – Report of Examination

Dear [REDACTED]

Let me begin this letter by stating I am a new Mayor in the Village. I took office in April 2013 and going forward I will make changes and adjustments as necessary.

The adoption of the budgets will always be based on incomplete (not inaccurate) information because of the timing of the budget adoption versus the end of the fiscal year. The budget process begins in January/February, as a rough draft must be completed by March 20<sup>th</sup> to present to the Board. All solid figures are used right up to that point, including expenditures, revenues, billable gallons, utility usage, etc. Going forward we will make certain to take into consideration the projected fund balance for the incomplete year.

See  
Note 1  
Page 17

As far as fund balance appropriations, the amount of over-appropriation is minor and adjustments were made in the current year when the overage was discovered. The overage for the years 2009-2010 and 2011-2012 totaled \$33,224 on combined general fund budgets of approximately 7.2 million dollars, or less than one half of one percent of the total budget.

See  
Note 2  
Page 17

Budget modifications are necessary to re-appropriate monies within the budget. If one area has a surplus and another has a deficit as the year progresses, budget modifications are approved. The external auditor has the final numbers and is in the position to make the final adjustments. This happens in all communities that use external auditors.

See  
Note 3  
Page 17

Every year when we build our budget we know that we are not going to collect the full tax levy, however we also know that we are going to collect past due taxes to make up a large portion (or sometimes more) of the uncollected taxes. Overall the collections are about 95% of the tax levy; therefore we expend less than 95% of the budgeted expenses if at all possible. Budgets are watched closely; just because an item is budgeted does not necessarily mean it is purchased. If we were to set up an allowance for uncollected taxes should we totally ignore the two-percent property tax cap?

See  
Note 4  
Page 17

As far as the fiscal stress indicated in your examination, we have not cut any services. We have in fact instituted programs which has represented savings of tens of thousands of dollars to the Village. These programs include:

- ❖ Single stream recycling program
- ❖ Combining our Justice Court with the Town of Liberty
- ❖ The Police Department has adopted twelve (12) hour shifts that cut the need for overtime.

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167 NORTH MAIN STREET / LIBERTY, NY 12754 / 845-292-2250 / TDD 800-662-1220 / 845-292-2376 FAX

- ❖ For one year the Police and Office Personnel agreed to forgo their pay increases to help in a difficult financial time. By freezing the pay, we were able to avoid **layoffs** and **furloughs**.

We were recently awarded an "Efficiency in Government Grant/Award" because of our efforts to reduce expenses without reducing services.

Our total capital expenditures as a percent of total expenses are compared to all other villages in New York State. Of the sixty-two counties, Sullivan County is one of the few that does not make its Villages "whole" so we cannot count on the full tax levy in our budget. It is unrealistic to compare us to Villages that are made whole.

See  
Note 5  
Page 17

Infrastructure is in poor condition all over New York State. Revenue sharing with the State dropped off dramatically many years ago leaving a gap to be filled by local taxpayers. Health care and pension costs that are governed by the state have skyrocketed. Once these expenditures are addressed we will have the flexibility to set up capital accounts and take care of our future infrastructure needs.

See  
Note 6  
Page 17

Thank You for your time and concern for the Village.

Very truly yours,

 Daniel J. Rafter Sr.  
Village of Liberty Mayor

## **APPENDIX C**

### **OSC COMMENTS ON THE VILLAGE'S RESPONSE**

#### **Note 1**

Although we recognize that the budget process will take place before each fiscal year is complete, the underlying information used to create and adopt budgets should be accurate.

#### **Note 2**

Fund balance should be kept at a reasonable level. Any amount of fund balance appropriated that exceeds the available amount, no matter how material, indicates a susceptibility to fiscal stress.

#### **Note 3**

Budget modifications should occur before money is spent.

#### **Note 4**

As stated in Recommendation #3, Village officials should adopt budgets to account for uncollectible taxes within the real property tax cap limitations, or take necessary steps to override the tax cap if warranted.

#### **Note 5**

Our comparison shows how little the Village has spent on capital expenditures compared to other villages within the State. While the cause may be relevant, the effect has a significant impact on the Village's fiscal stress.

#### **Note 6**

Health care costs are not governed by the State.

## **APPENDIX D**

### **AUDIT METHODOLOGY AND STANDARDS**

To accomplish our objective, we interviewed appropriate Village officials, tested selected records, and examined pertinent documents for the period June 1, 2011, to May 31, 2013.

Our examination included the following steps:

- We interviewed Village officials to gain an understanding of their budget process, including their determination of fund balance available for appropriation and their procedures for monitoring and controlling the budget.
- We calculated the results of operations during the last six years and for the current fiscal year by comparing actual revenues to actual expenditures and taking into account appropriated fund balance where applicable.
- We documented the trend of planned deficits for the general, water, sewer, and sanitation funds for the last six years and determined if sufficient fund balances were available.
- We calculated the real property taxes received during the last four years and the amount of outstanding taxes to determine the collection rate.
- We interviewed Village officials to determine if they use a tax overlay currently, or if they had in the past.
- We discussed the adjusting journal entries with the Clerk-Treasurer and external auditor and determined that the accounting system does not allow entries to be made once the month has been closed. Our review of the journal entries confirmed that several entries were made to account for this flaw in the system.
- We performed a trend analysis of equipment/capital outlay expenditures for the last 15 years for the Village and compared it to all villages in the State.
- We determined the Village's capital infrastructure needs by inspecting Village roads, capital equipment, and buildings and facilities.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## **APPENDIX E**

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**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
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