

Division of Local Government & School Accountability

Village of Penn Yan

Water Operations

Report of Examination

Period Covered:

June 1, 2010 — October 11, 2012

2013M-104



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

July 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 Penn Yan, entitled Water Operations. 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 Penn Yan (Village) is located in the Towns of Milo, Jerusalem, and Benton, in Yates County, and has a population of approximately 5,200. The Village provides various services to its residents, including fire and police protection, street maintenance, snow removal, street lighting, electric, sewer, water, parks and recreation, and general government support. The budgeted general fund appropriations for 2012-13 are approximately \$4.4 million and water fund appropriations are approximately \$1.74 million. Village services are financed primarily through real property taxes, payments in lieu of taxes (PILOTS), State aid, fines and fees, and utility rents.

The Village is governed by an elected Board of Trustees (Board) comprised of six Trustees and the Mayor. The Board is responsible for general management and control of Village water operations, including establishing internal controls over financial operations and maintaining sound financial condition. The Mayor serves as the Village's chief executive officer, while the Clerk-Treasurer serves as the chief financial officer.

The Board established the Village of Penn Yan Municipal Utilities Board (MUB) to provide recommendations to the Board regarding the operations of the Village's electric, water, and sewer departments. The MUB is not an independent body, but instead a subsidiary body acting for and at the pleasure of the Board.

The Village provides water to approximately 2,200 residential and commercial customers within the Village. Water is also sold to municipal customers, including the Towns of Milo, Jerusalem, Benton, and Pulteney, and the Village of Dresden. Customers within the Village are charged for actual water use based on a Board-established fee and monthly readings by Village employees. Municipal customers are billed for water quarterly. Bills are based on a calculated percentage determined for each municipality as a portion of the entire municipal customer water budget.² The Village reported revenues from water rents totaling \$1,683,010 in 2011-12.

Objective

The objective of our audit was to evaluate the Village's water operations. Our audit addressed the following related question:

¹ As of the 2010 U.S. Census

² Certain expenditures are only related to the Village and are excluded from costs attributed to all municipalities.

• Has the Village accurately and timely billed and collected water revenues?

Scope and Methodology

We evaluated the Village's water operations for the period June 1, 2010, to October 11, 2012. We expanded the scope back to 2007 to review fund balance and budgeting 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 Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendations and indicated they planned to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and 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 Clerk-Treasurer's office.

Water Billing and Collection

The Board is responsible for the oversight and effective management of Village water operations, including ensuring that costs associated with providing water to municipal customers are equitably distributed and collected and that water rents to customers within the Village are accurately and timely billed and collected. The Board fulfills this responsibility in part by instituting appropriate internal controls, including the establishment of policies and procedures to ensure bills are accurately and timely prepared and inter-municipal agreement provisions are adhered to. The Board must also monitor actual financial operations.

We found that the Board has not adopted appropriate policies and did not receive or review sufficient financial information to appropriately monitor water financial operations. Our examination of the billing and collection of water rents from customers within the Village did not disclose any material errors or irregularities. However, we found that the Village has not established formalized, agreed-upon regulations to define and allocate water plant costs for municipal customers. Additionally, the Village is inappropriately billing municipalities for unknown future capital costs and is holding this money in a reserve that was not legally created.

Board Oversight

The Board must provide sufficient oversight and effective management of Village water billings and collections by establishing policies and monitoring related financial activities. Written policies are a key component of an organization's internal control environment, as they formally establish and communicate to staff the manner in which to conduct the day-to-day operations of the organization. Written policies and procedures also provide evidence of management's priorities, its values, and its commitment to internal controls. Clearly defined and communicated authorizations can help establish a substantial framework of internal controls over water billings and collections. In addition, the Board must ensure that water rates and written contract provisions are clearly defined and properly enforced and executed.

The Board has not established adequate internal controls or provided sufficient oversight of the Village's water billings and collections. The Board has not established policies related to billing adjustments, water reconciliations, or the calculation of municipal billings and reconciliation amounts. Because the Board has not communicated its expectations to Village officials and employees on how to prepare water billings and conduct collections, individuals were left to generate

their own informal procedures. As a result, the Clerk-Treasurer has substantial control over the complex municipal billing calculations, including the interpretation of inter-municipal agreement provisions, with limited oversight. Although the Board annually approves the municipal billing amounts, it is not involved in the preparation or review of the calculation.

Written policies and procedures must also require that complete, accurate, and current financial information is provided to and reviewed by the Board, including periodic interim financial reports with a comparison of the current period and year-to-date budget versus actual revenues and expenditures, and information on cash balances. We found the Board and the MUB are not provided with sufficient financial reports to properly monitor the water budget and the billing and collection of water revenue. The Board and the MUB are provided monthly with year-to-date budget status reports, but these reports do not include the months' activity of receipts and disbursements. Further, the Board does not receive or review any interim financial reports of cash balances, or receive or review bank statements or reconciliations. Without adequate interim financial reports, the Board is unable to effectively monitor the budget or make informed financial decisions.

We reviewed 178 Village customer billings totaling \$7,100 to determine if billings were accurately prepared and if payments were properly recorded and deposited. We also reviewed the 2010-11 and 2011-12 fiscal years' adjustment reports to determine the appropriateness of any adjustments made to the accounts of Village Board members, other Village officials, or Water Department employees. Additionally, we compared outstanding account balances in the billing system with the amounts relevied on the Village's taxes. Although our review did not reveal any material discrepancies related to Village customer billings, the lack of formal policies and procedures could create difficulties when there is staff turnover. However, the Board's failure to establish formal policies and appropriately monitor water operations has resulted in billing discrepancies to neighboring municipalities and deficiencies in the Village's contracts with those municipalities.

Inter-Municipal Cost Allocation The Village can enter into written agreements with other municipalities for the purchase and sale of water. A written agreement should have clear provisions that address the needs, expectations, roles, and responsibilities of the parties, and the pricing, billing, and terms of payment. The agreement should be as specific as necessary to implement the intent of the parties. An agreement that lacks specificity can lead to indecision, disagreements, or additional costs that were not expected.

The Village and the five neighboring municipalities have determined that it would be in their mutual interests to take a regional approach to providing a water supply. This approach centers on the costs of the Village's water plant being shared among the participants. The Village entered into five separate agreements for the provision of water with individual municipalities. The agreements are similar, but not identical. Some agreements provide greater detail, and all contain different commitments concerning the minimum amount of water that each municipality would purchase, which would affect their final cost for water.

Assuming that it was the intent of the parties to charge each municipality on the same basis for operation and maintenance, it is essential that all parties agree to a clearly defined common cost structure and allocation of the costs associated with the water operations. In addition to determining the direct operational costs, the contracts should provide a detailed method for the allocation of costs not directly attributable to the water operations, such as benefits and administrative salaries. Defining a uniform, predetermined method will help to ensure an equitable allocation of such costs. In addition, it is important to consider the inclusion of long-term capital requirements and the necessity to legally save money in a lawfully established reserve fund³ to finance all or part of future capital improvement and equipment.

Water Plant Operational Costs – In general, the agreements provide that operation and maintenance costs will be paid by the parties "as their interest may appear" on the basis of actual water production. While some agreements specify that personnel and administrative costs are included as an operation and maintenance cost, other contracts appear to be silent on this issue and simply indicate that the participant will pay their proportionate share of operation and maintenance. Although all of the agreements provide that the Village shall promulgate necessary rules and regulations for the operation, maintenance, and control of the water treatment facility, it appears that such rules and regulations have not yet been adopted by the Village.

The agreements among the participants did not provide detail on which direct and indirect costs would be included and did not establish methods to ensure all costs were captured and allocated based upon the benefit derived. As a result, the Village could be incurring excess costs that should be passed along to the other participants or extracting more from the participating municipalities than the parties intended.

³ A reserve fund should have a clear purpose or intent that aligns with statutory authorization (provisions of General Municipal Law).

⁴ We note that at least one municipality has agreed to also pay for transmission and storage costs in addition to production costs.

In order to determine the municipal quarterly billing amounts, the water plant budget is divided among the municipalities based on estimated usage.⁵ After the end of the fiscal year, a reconciliation is completed⁶ to make any necessary adjustments for actual expenditures and water usage. If differences arise, there is a dispute resolution process.

We reviewed the municipal billing calculations and bills through the end of the 2011-12 fiscal year and have concerns about the following items:

- The Clerk-Treasurer's calculations of employee benefits related to water operations for the the 2010-11 and 2011-12 fiscal years are inconsistent with the proportion attributed to municipal water customers for employee salaries. The Clerk-Treasurer attributed 45 percent of the total water budget's employee benefits to the municipal water customers. However, this allocation does not coincide with that of the applicable water employee salaries, which was 60 to 70 percent. As a result, employee benefits totaling \$65,855 and \$33,619 for the 2010-11 and 2011-12 fiscal years, respectively, were not allocated among all the municipalities. Because the Board does not review the Clerk-Treasurer's calculation, this inconsistency went unnoticed. After bringing this to the Clerk-Treasurer's attention, she updated the 2012-13 budgeted calculation to more closely reflect employee benefit costs for municipal water operations.⁷ The Clerk-Treasurer's ability to alter the calculation without notifying or obtaining Board approval significantly increases the risk that errors and irregularities could occur and go unnoticed or undetected.
- The municipal billing calculation apparently was open to interpretation, and the Clerk-Treasurer made other adjustments in the 2012-13 calculation to include additional expenditures that she deemed related to municipal water operations, such as an unsupported increase in the allocation rate for administrative salaries and benefits from 45 to 50 percent. The subjective nature of the calculation and ability of the Clerk-Treasurer to make unapproved changes in the calculation demonstrates the necessity for clearly defined

⁵ Usage is estimated for four of the municipalities by a minimum purchase amount per the contract, and the other municipality's usage is estimated on the last completed fiscal year's actual usage.

⁶ The agreements require the reconciliation be completed by September 30th of each year.

⁷ The update included calculating FICA (Social Security and Medicare) and retirement costs based on the percentages of salaries/wages attributed to the municipal water budget.

guidelines for establishing and allocating costs to municipal customers.

- The lack of a consistent procedure for the calculation and review of municipal water billings may have also led to discrepancies in the calculation and the reconciliation. For example, the Clerk-Treasurer did not include the full amount for total benefits in the 2010-11 fiscal year budget calculation, which resulted in the municipal customers being billed \$2,610⁸ less than budgeted. Additionally, the end-of-year reconciliation for the 2011-12 fiscal year did not appropriately distribute costs for the Benton Hill Reservoir to only the three municipalities that benefit from the reservoir. This miscalculation would have created inequity among the municipalities. However, because we brought the matter to the Clerk-Treasurer's attention prior to the distribution of the annual adjustment to the municipalities, she was able to make an adjustment.
- Although the agreements clearly establish the schedule for billing, "we found that, for two of the eight billing quarters we reviewed, the Clerk-Treasurer sent the bills significantly late (three to seven months after the end of the quarter) to four of the five municipalities. As a result, cash flow for the Village suffered and budgeting for the participants was made more difficult because they did not have reliable cost information in a timely fashion.

<u>Budgeting</u> – The Village could also construct more accurate cost allocations if better controls were established over budgeting. We found the Board has consistently adopted budgets containing inaccurate water plant expenditure estimates, which resulted in large adjustments to municipal billings after the year-end reconciliation. For example, actual expenditures significantly exceeded budget estimates for certain items in the 2010-11 and 2011-12 fiscal years.

Table 1: Expenditures Exceeding Appropriations					
	2010-11		2011-12		
	Difference	Percentage	Difference	Percentage	
Plant Maintenance	\$56,781	210%	\$79,851	47%	
Health Insurance	\$22,277	21%	\$22,917	21%	
Chlorine	\$4,896	38%	\$6,095	44%	
Fluoride	\$4,764	53%	\$6,682	61%	

⁸ The water plant's 45 percent of total water budget's amount of \$5,800

⁹ Penn Yan, Dresden, Benton

¹⁰ The Village would have underpaid by approximately \$4,275.

¹¹ The agreements require bills be sent out by the first day of March, June, September, and December.

Because the Board did not receive adequate financial reports, the continued inaccuracies went unnoticed and uncorrected.

Master Meters – In order to obtain actual water usage readings, the Village relies on each municipality to provide quarterly meter readings from the master meter that records the amount of water supplied to them by the Village. We found that the Village does not test the meters for accuracy or verify the meter readings provided. Furthermore, the Village does not perform a reconciliation of water produced to water billed. As a result, the Village does not have any assurance that the meters are working properly or that the readings provided by the municipal customers accurately represent the amount of water supplied. Even though most of the municipalities are charged based on a minimum purchase amount, inaccurate readings would impact the amount paid by all of the municipalities when usage exceeds the minimum requirement.

<u>Capital Costs</u> – In order to prepare for future capital needs, the agreements with municipal water customers require the Village to prepare a five-year capital plan and an annual capital budget. The agreements obligate the parties to finance their apportioned share of the capital costs contained within the capital budget. The Village, however, bills each municipality to save for future capital expenditures without developing the capital plan or capital budget.

Because future capital costs were not included in a defined, approved plan, the Clerk-Treasurer estimated the amount that was the basis for the municipal capital billings. In the 2010-11 and 2011-12 fiscal years, the capital cost was based on an arbitrary amount of \$100,000, of which \$47,550 was the Village's portion and the remaining \$52,450 was split and billed to the municipalities. Although Dresden's portion was \$6,000, the Village had an understanding that they would only be required to pay half of their portion due to previous financial limitations. For the 2012-13 fiscal year's budget, the Clerk-Treasurer decided to double the capital cost amount to \$200,000 to save additional money for an anticipated water plant capital project that may occur at some point in the future. As a result, the Village is billing other municipalities \$104,900 for potential future capital costs without an agreement or approved plan.

Additionally, the Village has not created a legal capital reserve for these funds collected for future capital projects. Instead, the accumulated funds are placed into a savings account entitled

The amount billed is based upon a percentage included in the municipality's contract. No documentation was provided to us to support the percentage assigned.
 2012-13 Capital Breakdown: Jerusalem \$57,200, Dresden \$12,000, Milo \$16,940, Benton \$6,780, and Pulteney \$11,980

"wholesale customer reserve." We reviewed the billing and payment history for this "reserve," which had a balance of \$110,952 on August 31, 2012. Because there is no formalized plan for determining the amount billed for capital costs, the Village maintains a regular billing schedule based on these arbitrary amounts. As a result, the participants have no assurance that the amounts being accumulated are sufficient, or deficient, to meet the future capital needs of the water treatment facility.

Recommendations

- The Board and MUB should establish written policies and procedures, consistent with the terms and conditions of the inter-municipal water agreements for water operations. The policies should address billing, collecting, and accounting for water rents; budgeting; establishing capital reserve funds; and calculating municipal water customer billings and reconciliations.
- 2. The Board and MUB should ensure that municipal billing calculations are equitable.
- 3. The Board and MUB should develop and adopt water budgets that include realistic estimates for revenues and expenditures.
- 4. The Board and MUB should request and receive interim financial reports detailing current period receipts and disbursements, and cash balances for use in more effectively monitoring the Village's water budget and financial operations.
- 5. Village officials should ensure that municipal master meters are periodically inspected for damage or tampering and verify meter readings provided by municipalities.
- 6. Village officials should ensure that municipal billings are accurately prepared and distributed in a timely manner.
- 7. Village officials should develop a five-year capital plan as required in the inter-municipal agreements. Funds which are anticipated to be needed for future capital projects should be budgeted for and then placed in a lawfully established reserve fund.

Balance Breakdown: Penn Yan \$42,543, Jerusalem \$52,156, Dresden \$1,858,
 Milo \$13,510, Benton \$4,666, and Pulteney (\$3,781)

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

Village of Penn Yan

Mayor Robert J. Church Trustee William J. Allison Trustee D. Christine Christensen Trustee Michael J. Christensen Trustee David Reeve Trustee Richard D. Stewart Trustee Bart Winslow Clerk-Treasurer Gary Meeks PENN N. Incorp. April 2

on Keuka Lake

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July 22, 2013

Edward V. Grant, Jr.
Chief Examiner
Office of the State Comptroller
Division of Local Government and School Accountability
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614

Dear Mr. Grant:

This letter is in response to our recent exit interview and the draft audit report of the Village of Penn Yan Water Department operations, for the period of June 1, 2010 to October 11, 2012.

First of all, we would like to express our appreciation for the significant time and effort of your audit team. The written report, and oral discussion of the findings, was informative and useful.

We are in agreement with the recommendations outlined in the audit report. In particular, we recognize the importance of written policies and procedures consistent with the terms and conditions of the inter-municipal water agreements. While steps have already been taken in recent months which address some of the recommendations, we will ensure that these are adequately covered as we develop our corrective action plan.

Thank you for your oversight and suggestions to improve the operations of our Water Department. We will file our corrective action plan in a timely manner after the final report is released.

Respectfully yours,

Robert J. Church Mayor

This is an Equal Opportunity Program

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to evaluate Village water operations for the period June 1, 2010, to October 11, 2012. We expanded the scope back to 2007 to review fund balance and budgeting trends.

To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed appropriate Village officials and employees to obtain an understanding of Village processes and operations and to determine and evaluate internal controls.
- We requested policies and procedures, and reviewed agreements, Board minutes, and MUB minutes for January 2010 through September 2012.
- We reviewed the Village's municipal calculation for budgeted quarterly billing amounts and the actual reconciliation completed after year-end to determine if the calculation was accurate, timely, and included appropriate data.
- We reviewed all 40 municipal water bills (eight bills to each of the five municipalities) including capital billings, totaling approximately \$665,000, to determine if they were appropriately and timely billed and if payments were properly recorded and deposited.
- We reviewed 25 randomly selected water claims from the 2011-12 fiscal year, based on the purchase order report generated from the computer software, to determine if they were reasonable water expenditures. We also reviewed an additional 10 claims that were randomly selected from only the claims on the report that exceeded \$1,000.
- We reviewed the "wholesale customer reserve" account balance, allocation of balance to municipalities, and detailed history of activity for 2010 through August 31, 2012.
- We reviewed total annual revenues and expenditures for a five-year period to determine the operating deficits or surpluses for the water fund. We also reviewed interfund receivable and liability (due to and due from) accounts for the 2010-11 fiscal year.
- We compared budgeted revenues and expenditures to actual operating results for fiscal years 2006-07 through 2010-11.
- We compared the water plant budgeted appropriations with actual expenditures for fiscal years 2010-11 and 2011-12 to determine the reasonableness of budget estimates. We also reviewed the 2012-13 fiscal year budget to determine if consistent budgeting trends remained.
- We reviewed information provided to the Board, including the budget status report, to determine if sufficient financial information was provided to the Board.

- We performed a walk-around with the Village meter reader to observe the meter reading process and compared meter readings along the route with reports generated from the billing software.
- We tested a randomly selected sample of 178 Village customer billings from April and May 2011 and 2012 totaling \$7,100 to determine if billings were accurately prepared and payments were properly recorded and deposited.
- We reviewed utility account adjustment reports for the 2010-11 and 2011-12 fiscal years to determine if any adjustments were made to Village Board members, Officials, or water employees who have Village water accounts. We examined any adjustments to determine if they were appropriate.
- We compared relevy reports sent to the County for the 2010-11 and 2011-12 fiscal years with outstanding balances in the billing system as of the relevy date.

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 C

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Andrew A. SanFilippo, Executive Deputy Comptroller Nathaalie N. Carey, Assistant Comptroller

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