

Town of Southampton

Ethics Oversight

DECEMBER 2020



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Southampton

Audit Objective

Determine whether Town of Southampton (Town) officials used resources to meet certain ethics oversight standards.

Key Findings

Town officials did not meet certain ethics oversight standards. The Ethics Board did not:

- Fully administer the Town’s disclosure system that is intended to foster transparency and help identify conflicts of interests to ensure all required annual statements of financial disclosure (disclosure statements) were actually filed and filed on time.
 - Six officer and employee (3 percent) and 15 other required filer (16 percent) disclosure statements were not filed.
 - One Town Board member (10 percent), 28 officer and employee (16 percent) and 22 other required filer (24 percent) disclosure statements were filed late.
- Develop or provide ethics training or educational materials to officers and employees or prepare an annual report summarizing its activities for the year.

Key Recommendations

- Ensure the Ethics Board submits annual reports, summarizing its activities and recommending changes to the code of ethics, and provides ethics training and educational materials to officers and employees.
- Ensure the Ethics Board verifies all annual financial disclosure filers file timely disclosure statements.

Town officials disagreed with certain aspects of our findings and recommendations, but indicated they planned to implement some of our recommendations. Appendix C includes our comments on issues raised in the Town’s response letter.

Background

The Town is located in Suffolk County in the Long Island region of New York. The Town is governed by an elected Town Board composed of four Council members and the Town Supervisor (Supervisor).

The Supervisor is the chief executive officer (CEO) and is responsible, along with other administrative staff, for day-to-day management.

The Town Board established an Ethics Board responsible for providing ethics oversight. The Town Board and the Ethics Board each retained a special legal counsel to assist with ethics matters.

Quick Facts

Population	56,790
Officers and Employees	634
Required Disclosure Statement Filers	
2017	142
2018	138

Audit Period

January 1, 2017 – September 30, 2018

Ethics Oversight

How Can Local Governments Establish Proper Ethics Oversight?

A town's governing body must establish a code of ethics to set forth the standards of ethical conduct reasonably expected of town officers and employees. The code of ethics must address certain provisions including disclosure of interest in legislation before the governing body, holding of investments in conflict with official duties, private employment in conflict with official duties and future employment.

To reduce risk that officers' and employees' actions could violate a town's code of ethics and public assets could be subject to misuse, the governing body should adopt a code of ethics that addresses each of the four required statutory provisions of New York State General Municipal Law (GML) and vigorously enforce the code provisions.¹

Within the code of ethics, the governing body may also set forth other standards of ethical conduct such as provisions addressing nepotism, public disclosures for recusals and abstentions and the proper use of municipal resources.² The town's CEO is responsible for distributing a copy of the code of ethics to every town officer and employee. Although not required, the town could also post the code of ethics on the town website.

In addition to establishing a code of ethics, towns with a population of 50,000 or more are required to have certain individuals annually complete a financial disclosure statement. Filing annual disclosure statements helps increase transparency about the private interests and activities of officers and employees, which may identify potential conflicts of interest.

A board of ethics may be established by the governing body to administer a system to maintain the financial disclosure statement filings.³ The board of ethics, if established, should develop procedures to review and examine the financial disclosure statements filed with the town, to promote compliance with the filing requirement, and verify that officials and employees are impartial and free from conflicts of interest in fulfilling their public responsibilities. A board of ethics can help ensure that the local government operates in a transparent and ethical manner, and local government officers and employees act in the best interests of taxpayers and are not conflicted by personal interests.

The governing body may also develop additional standards of conduct to provide more comprehensive ethical guidance to meet a town's specific circumstances.

¹ New York State General Municipal Law (GML), Section 806

² State Comptroller's Model Code of Ethics – Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

³ GML provides that the board of ethics, if established by the governing body, is responsible for receiving the annual financial disclosure statements.

For example, the governing body may establish procedures to ensure that town officers and employees receive ethics compliance training, including notifying officers and employees of the whistleblower provisions provided by State Law. In addition, the governing body could require that every officer and employee attest to receiving and reviewing the code of ethics at the time of their election or appointment and at least once every five years.

To help ensure proper ethics oversight, the CEO is responsible for posting a copy of certain portions of the conflict of interest statute in each town building.⁴ The statute must be posted in a place visible to its officers and employees.

The Town Established an Ethics Board and Adopted a Code of Ethics

The Town established an Ethics Board, which is responsible for reviewing the financial disclosure statements. The Town adopted a code of ethics that provides general authority for the Ethics Board to ensure that the financial disclosure statements are filed and complete.

In addition, the Town code of ethics states the Ethics Board is to provide training and education materials to officers and employees regarding article 18 of GML and the code of ethics, which could include a discussion on whistleblower protections. Further, the Town code of ethics generally provides that the Supervisor is to cause a copy of the code of ethics to be distributed to each officer and employee within 10 days after entering upon the duties of his/her office or employment. However, the code of ethics does not require officers and employees to periodically attest to receiving and reading the code of ethics.

The Code of Ethics Complied with GML and the Conflict of Interest Statute Was Posted

The Town Board adopted a code of ethics, which was posted on the Town's website. The code of ethics included all four statutorily required provisions set forth in the GML.⁵ The CEO visibly posted certain sections of the GML in each of the four buildings tested, as required by the GML.

The Ethics Board Did Not Receive or Provide Ethics Training

The Ethics Board did not provide training and education materials to officers and employees regarding Article 18 of GML and the code of ethics. In addition, the Ethics Board did not receive similar training. During our audit, the Ethics Board

⁴ GML, Section 807 requires the posting of GML Sections 800 through 809 in each public building.

⁵ GML, Section 806, refer to Appendix A, Figure 4

Chair, an Ethics Board member and Ethics Board Counsel told us ethics training would be rolled out for officers and employees, and that they planned for the Ethics Board to receive ethics training in the future.

In addition, during our exit discussion, the Ethics Board's legal counsel told us he provides ongoing informal training to Ethics Board members during Ethics Board meetings. In an effort to help ensure proper ethics oversight, the Town may wish to have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics. For example, training could relate to the provisions of Article 18 of GML, codes of ethics, annual financial disclosure and decisional law relating to conflicts of interest and ethics.

The Supervisor told us that all employees received the code of ethics when it was enacted. Although not required by the code of ethics, all newly hired employees sign a statement acknowledging receipt of an employee handbook, which includes the code of ethics. In addition, the Supervisor told us that major modifications to the code of ethics are distributed to all employees through memorandums. We reviewed acknowledgment statements for 10 newly hired employees during our audit period to determine whether these employees attested to having received the code of ethics. We found that all of these employees signed a statement attesting to having received the code of ethics.

Although not required by law, the Town Board could reinforce code of ethics awareness of officers and employees by requesting that all officers and employees attest in writing to reading the code of ethics at the time of hire, election or appointment and at least once every five years. They could also distribute the code of ethics to all officers and employees upon any amendment to the code.

Unless the Town Board vigorously enforces the code provisions and reinforces employee awareness of the code of ethics, there is a higher risk that officers' and employees' actions may violate the code of ethics and public assets could be subject to misuse.

What Are the Responsibilities of a Board of Ethics for Reviewing the Code of Ethics and Disclosure Statements?

A board of ethics is responsible for making recommendations with respect to drafting, adopting or amending the code of ethics, upon the request of the governing body. Therefore, a periodic review of the code of ethics by the board of ethics may be appropriate to help ensure the code continues to comply with GML. If requested, the board of ethics may also provide recommendations to the governing body as it relates to other ethical considerations that may help ensure ethical awareness for officers and employees.

In addition, the responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements. The board of ethics may also develop procedures to review and examine the financial disclosure statements to help ensure that the filings are complete.

When a board of ethics is established by the governing body to administer an annual financial disclosure system, the board of ethics should establish a process to verify that all required filers have submitted their disclosure statement with the board of ethics. In addition, the board of ethics should ensure that the disclosure statements submitted by the required filers are complete.

To help verify the filing and completeness of the disclosure statements, the governing body could include procedures for an appointed official or support staff to assist the board of ethics in ensuring that each financial disclosure statement is filed, reviewed, all questions are addressed and any inconsistencies or missing information are followed-up on.

In addition, the board of ethics should develop procedures to help ensure that disclosure statements are reviewed to identify transactions that could pose conflicts of interest. For example, boards of ethics could maintain a list of filers' outside business interests, and supply the list to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.

Further, the board of ethics could obtain a list of vendors from the accounts payable department to reference during their review of the disclosure statements to help it identify potential conflicts of interest. If local governments' boards of ethics do not ensure compliance with filing requirements or review the information on disclosure statements to identify any conflicts of interest, taxpayers have less assurance that officers and employees in policy-making positions are free from conflicts of interest.

The Town's code of ethics requires certain officers and employees to file a disclosure statement. For example, the code of ethics provides that elected officials, Town agency appointees, assessors and certain Town officers and employees identified in the Town's administrative handbook are to file a disclosure statement.

The Supervisor is to file a list of individuals required to file annual disclosure statements with the Ethics Board, and notify such individuals of the requirement to file, during March each year. The Ethics Board is responsible for reviewing the list of individuals required to file a disclosure statement to determine whether it is complete and accurate and may add additional officers and employees it determines should be on the list.

...[T]he responsibilities of a board of ethics include administering a system to receive annual financial disclosure statements.

The disclosure statements are to be filed by May 15 each year unless an extension is requested by the filer and granted by the Ethics Board. Newly elected officials and applicable appointed officers and employees are to file a disclosure statement within 30 days of appointment and by each subsequent May 15 thereafter. The Supervisor is to notify all new officers and employees, within 10 days of appointment, of their obligation to file a disclosure statement.

The code of ethics provides that the Town Clerk is responsible for receiving and retaining a copy of the disclosure statements and providing duplicate copies to the Ethics Board immediately upon receipt. The Ethics Board is responsible for reviewing the filed disclosure statements to ensure compliance with the code of ethics. If a required filer fails to file, files a deficient disclosure statement or files a disclosure statement that reveals a possible violation of the code of ethics, the Ethics Board is to notify the individual in writing of the deficiency or potential violation.

In addition, the code of ethics implies that the Ethics Board is required to meet at least annually, because it states that the Ethics Board is to elect a Chair from among its members at its first meeting each year. According to the code of ethics, the Ethics Board is to submit an annual report to the Supervisor and Town Board summarizing its activities and making recommended changes to the code of ethics.

The code of ethics provides that the Ethics Board is to periodically review the code of ethics to determine whether it promotes integrity, public confidence and participation in Town government and whether it sets forth clear and enforceable, common sense standards of conduct. The Ethics Board may request support staff and assistance from the Town Board and may also retain outside legal counsel in furtherance of its duties and responsibilities.

The Ethics Board Did Not Adequately Monitor the Filing of Disclosure Statements

The Ethics Board met seven times during our audit period. However, the Ethics Board did not adequately administer the Town's disclosure system by ensuring all financial disclosure statements were actually filed or filed on time.

We found that more than one-quarter of the required disclosure statements were not filed or filed late. Under these circumstances, there is an increased risk that potential conflicts of interest were not identified and/or not reported to the Ethics Board.

The Town Board has assigned responsibility for administering the disclosure statement system to the Ethics Board. However, in 2017 and 2018, the Ethics Board did not ensure all individuals, required to file a disclosure statement

We found that more than one-quarter of the required disclosure statements were not filed or filed late.

pursuant to the code of ethics and the administrative handbook, submitted a timely disclosure statement. In 2017 and 2018, 10 percent of Town Board member (Figure 1), 19 percent of officer and employee (Figure 2) and 40 percent of other required filer (Figure 3)⁶ disclosure statements were not filed or filed late.

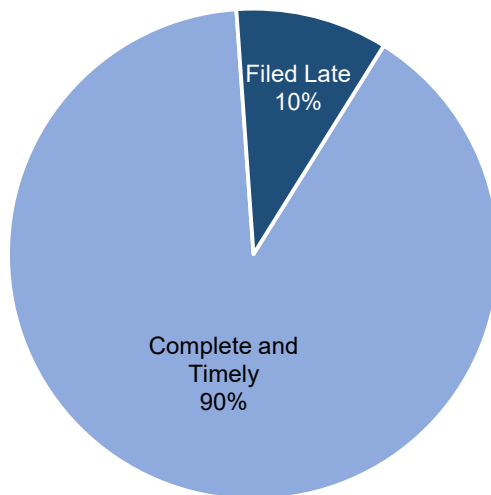
In 2017 and 2018, all five Town Board members were required to file disclosure statements. However, in 2017, one filed late.

In 2017, 90 officers and employees were required to file. However, six did not file and seven filed late. In 2018, 87 officers and employees were required to file. However, 21 filed late.

In 2017, 47 other individuals associated with the Town were required to file. However, five did not file and 12 filed late. In 2018, 46 other individuals associated with the Town were required to file. However, 10 did not file and 10 filed late.⁷

FIGURE 1

**Town Board Member
Annual Financial Disclosures
2017 and 2018**



⁶ Other required disclosure statement filers included the following individuals associated with the Town: Architectural Review Board, Assessment Review Board, Conservation Board, Ethics Board, Licensing Review Board, Planning Board, Public Safety Commission and Zoning Board of Appeals.

⁷ Refer to Appendix A, Figure 5 for details on individuals who did not file in 2017 and 2018.

FIGURE 2

**Officers and Employees
Annual Financial Disclosures
2017 and 2018**

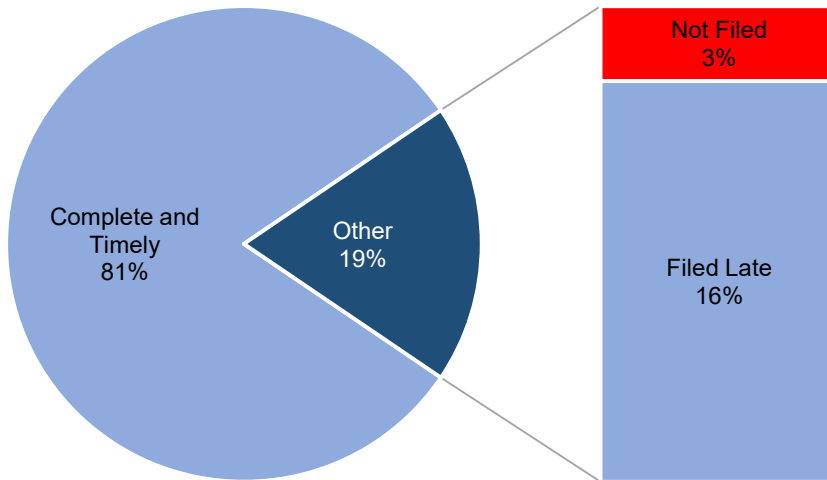
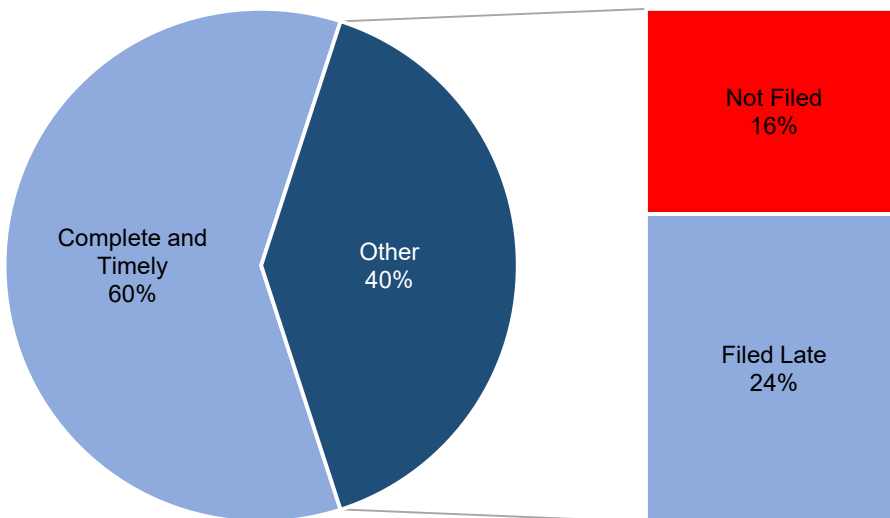


FIGURE 3

**Other Individuals Associated With the Town
Annual Financial Disclosures
2017 and 2018**



The Ethics Board Chair, another Ethics Board member and the Ethics Board's legal counsel told us that the Human Resources Department generates a list of officers and employees required to file disclosure statements for the Ethics Board. However, the Supervisor told us the responsibility to generate the list of required filers had been delegated to the Town Attorney's office.

The Deputy Town Attorney told us that she, along with the assistance from the Human Resources Department, compiles a list of individuals required to file disclosure statements and that the list is not provided to the Ethics Board to review for accuracy and completeness. In addition, the Deputy Town Attorney told us that the Human Resources department has not recently updated the list of required filers; therefore, some required filers were not included on the list.

The code of ethics provides that the Supervisor is responsible for causing the list of required disclosure statement filers to be filed with the Ethics Board, and the Ethics Board is responsible for reviewing the list for accuracy and completeness. However, it remains unclear whether anyone is actually ensuring that the list of required filers is always complete and accurate.

The Deputy Town Attorney told us that of the 21 disclosure statements not filed, 11 were for required filers inadvertently omitted from the list of required disclosure statement filers. The remaining 10 were for individuals on the list of required disclosure statement filers who did not file, as required.⁸

Two Ethics Board members told us that disclosure statements are filed in duplicate – one copy at the Town Clerk's office and the other copy at the Town Attorney's office. The Deputy Town Attorney then provides the Ethics Board with all filed disclosure statements.

The two Ethics Board members and the Ethics Board's legal counsel told us that the Ethics Board reviews the filed disclosure statements to determine whether all required filers have filed, all questions on the disclosure statement are answered and whether any potential conflicts of interest are identified. Also, they told us that the Ethics Board compare the list of Town vendors to all outside employment or investments listed on the disclosure statements to determine whether there is a potential or actual conflict of interest. Further, the two Ethics Board members told us that the Ethics Board follows up with the required filers when they have not submitted a disclosure statement or if a potential conflict of interest is identified.

Without obtaining disclosure statements from all required filers, taxpayers have less assurance that the Town has a strong stance on transparency and can identify potential conflicts of interest of officers and employees that could compromise impartiality in decision-making.

⁸ The Attorney told us that seven of these disclosure statements were received but could not be located.

The Ethics Board Did Not Submit Annual Reports

The Ethics Board reviewed the code of ethics and proposed changes to the code of ethics during our audit period. However, during our audit period, the Ethics Board did not submit an annual report to the Supervisor and Town Board summarizing its activities, as required by the code of ethics.

Ethics Board members did not provide a specific reason for not preparing an annual report.

What Do We Recommend?

The Town Board should:

1. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics.
2. Amend the code of ethics to require all officers and employees attest in writing to the receipt and review of the code of ethics at the time of their elections or appointment, at least once every five years, and upon amendment to the code.

The Supervisor should:

3. Provide the Ethics Board with a list of individuals required to file disclosure statements in March each year.
4. Ensure all required disclosure statement filers are notified, in March each year or within 10 days of appointment, of their obligation to file disclosure statements.

The Ethics Board should:

5. Develop and provide ethics compliance training to all employees and officers, to include an overview of the code of ethics and whistle-blower protections.
6. Submit annual reports to the Town Board summarizing its activities and recommending changes to the code of ethics.
7. Review the list of required disclosure statement filers to determine whether it is complete and accurate.
8. Verify that all individuals covered by annual financial disclosure requirements file a timely disclosure statement.

...[T]he Ethics Board did not submit an annual report to the Supervisor and Town Board...as required by the code of ethics.

Appendix A: Town Code of Ethics Information

Figure 4: Required Code of Ethics Provisions^a and Other Ethical Considerations^b

Required Provisions	Included in the Town's Code of Ethics?
Disclosure of Interests in Legislation Before the Local Governing Body	Yes
Future Employment	Yes
Holding of Investments in Conflict With Official Duties	Yes
Private Employment in Conflict With Official Duties	Yes
Other Ethical Considerations	
Applicability	Yes
Confidential Information	Yes
Definitions	Yes
Enforcement	Yes
Effective Date	Yes
Establishing a Board of Ethics	Yes
Gifts	Yes
Interests in Contracts	Yes
Nepotism	Yes
Political Solicitations	Yes
Posting and Distributing the Code of Ethics	Yes
Prohibition on Use of Municipal Position for Personal or Private Gain	Yes
Purpose of the Code of Ethics	Yes
Recusal and Abstention	Yes
Ethics Board Members Term Limits ^c	Yes

a GML, Section 806

b Refer to OSC's Model Code of Ethics for Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

c Not included within OSC's Model Code of Ethics for Local Governments but should be considered as a best business practice

Figure 5: Officers and Employees and Other Individuals Associated With the Town Who Did Not File an Annual Financial Disclosure Statement

Job Title	2017	2018
Officers and Employees		
Environmental Facilities Manager	Not Filed	
Legislative Aide	Not Filed	
Senior Administrative Assistant	Not Filed	
Town Maintenance Supervisor	Not Filed	
Town Parks Director	Not Filed	
Town Trustee	Not Filed	
Other Individuals Associated With the Town		
Architectural Review Board	Not Filed	
Conservation Board	Not Filed	
Ethics Board (5)		Not Filed
Public Safety Commission (3)	Not Filed	
Public Safety Commission (5)		Not Filed

() represents the number of individuals that did not file a disclosure statement

Appendix B: Response From Town Officials

Office of the Town Attorney
116 HAMPTON ROAD
SOUTHAMPTON, NY 11968

Phone: (631) 287-3065
Fax: (631) 287-3662

TOWN OF SOUTHAMPTON



JAY SCHNEIDERMAN
TOWN SUPERVISOR

JAMES M. BURKE
TOWN ATTORNEY

KATHLEEN MURRAY
CHRISTINE J. PRESTON
DEPUTY TOWN ATTORNEYS

KARA L. BAK
SEAN M. CAMBRIDGE
KELLY A. DOYLE
KATHRYN V. GARVIN
ASSISTANT TOWN ATTORNEYS

TOWN OF SOUTHAMPTON RESPONSE TO AUDIT REPORT

I. THE TOWN OF SOUTHAMPTON'S ETHICS PROGRAM

The Supervisor and Town Council members are committed to integrity and transparency in government. A strong and effective ethics program is one of the Town's highest priorities.

The Town of Southampton is proud of its ethics program.

- During the audit period, the Board of Ethics investigated complaints, rendered advisory opinions and devoted many hours to drafting an entirely new, clear and comprehensive code of ethics for consideration by the Town Board.
- The Board of Ethics was trained by ethics counsel and is guided by ethics counsel in the discharge of its duties. Workforce training was deferred while the new code is under consideration by the Town Board.
- The administration of the Town's disclosure program was nearly perfect. In 2017, required disclosure statements were filed by all but 11 individuals, or 7% of the 142 required to file. In 2018, disclosure statements were filed by all Town officers and employees, and all but ten other individuals, or 7% of the 138 required to file.
- The Board of Ethics personally reviewed all disclosure statements filed by Town officers and employees, and by candidates for town elective office to ensure that they were complete, compared the disclosures of secondary employment and investments to a list of Town vendors as a check against potential conflicts of interest, and followed-up on relationships and activities that appeared to present a potential for conflicts of interest.
- The Board of Ethics responded to requests for inspection and copying of the disclosure forms filed pursuant to the Freedom of Information Law.

II. THE COMPTROLLER’S AUDIT METHODOLOGY AND FINDINGS

The Town of Southampton appreciates the constructive efforts of the Comptroller to help identify ways in which the Town can improve its ethics program. However, it notes that certain audit procedures may tend to mislead some readers.

- In its assessment of the Town’s ethics program, the Comptroller combined the two years under audit to develop statistics that may tend to mislead some readers. For example, if one employee failed to file a disclosure statement in each of the two years, the Comptroller counted that as two non-disclosures.
- In developing its statistics, the Comptroller combined non-disclosures with late disclosures, possibly leading some readers to conclude that the number of non-disclosures was higher than it actually was.
- The Comptroller developed separate statistics for various categories of Town officers and employees who were required to file disclosure statements. In doing so, the Comptroller used smaller statistical samples. Statistics can mislead some readers when the sample is small. For example, one member of a five member board represents 20% of the board, but is still just a single person. The Board of Ethics will continue to strive for perfection in the administration of the Town’s financial disclosure law.
- No disclosure form was unavailable for review due to late filing. While timely filing is administratively desirable, and while further efforts will be made to ensure that all disclosure statements are timely filed, the Ethics Board makes annual and continued efforts to follow-up and obtain late disclosures. Importantly, the goal of transparency was unaffected by late filing.
- The Board of Ethics personally reviews all disclosure statements to ensure that they are complete, and compares the disclosures of secondary employers and investments to a list of Town vendors as a check against potential conflicts of interest. The Board of Ethics flags and follows-up on disclosed relationships and activities that appear to present a potential for conflicts of interest.

See
Note 1
Page 18

See
Note 1
Page 18

See
Note 1
Page 18

III. COMPTROLLER RECOMMENDATIONS:

:

Comptroller Recommendation:

1. The Town Board should have Ethics Board members complete training on the provisions of law relating to conflicts of interest.

Response:

1. The Board of Ethics was trained by ethics counsel and is guided by ethics counsel in the discharge of its duties. Workforce training was deferred while the proposed new code of ethics was under consideration by the Town Board. More formal training will resume when the Town Board completes its consideration of the new code of ethics.

Recommendation:

2. The Town Board should amend the code of ethics to require all officers and employees attest in writing to the receipt and review of the code of ethics at the time of their elections or appointment, at least once every five years, and upon amendment to the code.

Response:

2. The annual statement of financial disclosure includes an attestation to receipt and review of the Code of Ethics. Newly hired employees attest in writing to the receipt and review of the Code of Ethics at the time of orientation. All officers and employees will attest in writing to the receipt and review of the Code of Ethics at the ethics training programs that will be conducted when the Town Board completes its consideration of the new code of ethics. The Town Board thanks the Comptroller for this recommendation and will consider its implementation.

Comptroller recommendation:

3. The Supervisor should provide the Ethics Board with a list of individuals required to file disclosure statements in March of each year.

Response:

3. The Supervisor, by delegation to the Human Resources Department, will provide the Ethics Board with a list of individuals required to file disclosure statements in March of each year.

Comptroller recommendation:

4. The Supervisor should ensure all required disclosure statement filers are notified, in March each year or within 10 days of appointment, of their obligation to file disclosure statements.

Response:

4. The Supervisor, by delegation to the Town Attorney's Office, ensures that all required disclosure statement filers are notified, in March each year or within 10 days of appointment, of their obligation to file disclosure statements.

See Note 2 Page 18

Comptroller recommendation:

5. The Board of Ethics should develop and provide ethics compliance training to all employees and officers, to include an overview of the code of ethics and whistle-blower protections.

Response:

5. The Board of Ethics has developed, and in past years has presented, ethics compliance training to all employees and officers. During the audit period, workforce training was deferred while the proposed new code of ethics was under consideration by the Town Board. Training programs, including an overview of the code of ethics and whistle-blower protections, will resume when the Town Board completes its consideration of the new code of ethics.

Comptroller recommendation:

6. The Board of Ethics should submit annual reports to the Town Board summarizing its activities and recommending changes to the Code of Ethics.

Response:

6. During the audit period, the Board of Ethics met with the Town Board in a public work session, and separately with the Town Supervisor and with a member of the Town Board. At those meetings, the Board of Ethics reported to the Town Board on its activities and recommended adoption of an entirely new code of ethics that it prepared. The Board of Ethics will provide the Town Board with annual reports summarizing its activities and, when warranted, recommending changes to the Code of Ethics.

Comptroller recommendation:

7. The Board of Ethics should review the list of required disclosure statements filers to determine whether it is complete and accurate.

Response:

7. The Board of Ethics, by delegation to the Town Attorney's Office, reviews the list of required disclosure statements filers to determine whether it is complete and accurate. While the Board of Ethics achieved near perfect compliance by officers and employees during the audit period, it will continue to strive for perfection in the administration of the Town's financial disclosure law.

See Note 2 Page 18

Comptroller recommendation:

8. The Board of Ethics should verify that all individuals covered by annual financial disclosure requirements file a timely disclosure statement.

Response:

8. While the Board of Ethics achieved near perfect compliance by officers and employees during the audit period, it will continue to strive for perfection in the administration of the Town's financial disclosure law.

Steven G. Leventhal

cc: Hon. Jay Schneiderman

Appendix C: OSC Comments on the Town's Response

Note 1

Filers are required to file an annual disclosure statement. Therefore, findings are based on the number of annual disclosure statements officials were required to obtain and review each year.

The audit period included two annual filings, and the average rate of noncompliance was reported to provide a perspective on overall performance for the audit period. Further, disclosure statement deficiencies (i.e., not filed or filed late) are clearly reported in the report highlights, report body and Figures 1, 2 and 3.

While we separated our conclusions for required disclosure statements by category (Town Board members who set policy including the code of ethics, paid officers and employees and other individuals who voluntarily serve on various Town boards), they are based on our 100 percent testing of all individuals required to file disclosure statements.

Note 2

Town officials did not provide any supporting evidence that the Town Attorney's office reviewed the list of required filers for accuracy and completeness on behalf of the Ethics Board. Eleven required filers were omitted from the list and not notified to file a disclosure statement. As a result, the disclosure statements were not filed (refer to Figure 5).

Appendix D: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials, employees and Ethics Board members to gain an understanding of the governing and ethics oversight.
- We reviewed policies, procedures and Ethics Board minutes related to ethics.
- We reviewed all 259 disclosure statements filed for 2017 and 2018 to determine whether they were completely and properly filed on time and any potential conflict of interests were reported to the Ethics Board.
- We reviewed all advisory opinions issued by the Ethics Board during the audit period.
- We reviewed procedures to receive ethical complaints from the public, which consist of submitting and swearing to the complaint with the Deputy Town Attorney.
- We used our professional judgment to select a sample of 10 of 272 newly hired employees during our audit period to determine whether they attest to having received and reviewed the code of ethics, with no expectations of greater or lesser results.
- We used our professional judgment to select a sample of four buildings, from a list of eight main Town building locations obtained from the Town website. We walked through these buildings to determine whether the conflict of interest statute was posted. For our sample, we selected the building where we conducted a majority of our fieldwork and three additional nearby buildings, with no expectations of greater or lesser results.

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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

The Town 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 provided to our office within 90 days, pursuant

to Section 35 of 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 the CAP available for public review in the Town Clerk's office.

Appendix E: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

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