

Town of Potter

Town Clerk

APRIL 2021



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

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Report Highlights

Town of Potter

Audit Objective

Determine whether the Town of Potter (Town) Clerk deposited, recorded, reported and remitted collections in a timely and accurate manner.

Key Findings

A former Clerk did not deposit intact (in the same amount and form as received) or record, report and remit all collections to the appropriate parties in a timely and accurate manner. We identified a cash shortage of \$23,838 during this former Clerk's tenure.

- The former Clerk did not complete monthly bank reconciliations or accountabilities, issue or properly prepare duplicate receipts or retain receipts for all collections.
- The Town Board (Board) did not annually audit the Clerk's records, as required. The audits may have identified these discrepancies and determined the shortage.

Key Recommendations

- Consult with legal counsel and the Town's insurance agent to recoup the missing money from the former Clerk.
- Ensure the Clerk prepares monthly bank reconciliations and accountability analyses.
- Annually audit the Clerk's records to ensure records, deposits, reports and collections are remitted in an accurate and timely manner and the Clerk issues and retains duplicate receipts.

Town officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action.

As a result of our audit and subsequent investigation, the former Clerk was arrested in November of 2020 and charged with grand larceny, corrupting the government, tampering with public records and official misconduct. The matter is still pending in Court.

Background

The Town, located in Yates County (County), is governed by an elected Board composed of four Board members and the Town Supervisor (Supervisor). The Board is responsible for the general oversight of operations and finances.

An elected Clerk serves as Clerk to the Board and collects fees for a variety of purposes, including birth and death certificates, marriage, dog and environmental licenses and building permits.

The Clerk is responsible for collecting and remitting real property taxes to the Supervisor and County Treasurer (Treasurer).

Quick Facts

2017–2019

Total Real Property Tax Warrants	\$4,813,856
Clerk Fees Collected	\$33,356
Population	1,865

Audit Period

January 1, 2017 – June 10, 2020

Town Clerk

During our audit period, three Clerks (Clerk A, B and C) served the Town. Clerk A served until December 31, 2017, Clerk B served from January 1, 2018 through May 21, 2019, when she resigned, and Clerk C began serving on June 15, 2019. From May 22 through June 15, 2019, the Supervisor's bookkeeper performed the Clerk's duties.

How Should a Clerk Record, Deposit, Report and Remit Collections?

The clerk must properly account for all transactions by promptly and accurately recording amounts collected, depositing receipts intact, and reporting and remitting money to the appropriate parties. New York State General Municipal Law requires town clerks to issue duplicate receipts when no other adequate evidence of receipt is available.¹ Duplicate receipts should be press-numbered and include adequate information to identify the payment date, payee name, amount, purpose, form of payment (cash or check) and recipient name. Proper receipts serve as evidence of individual collections and help ensure accounting records are complete and accurate.

New York State Town Law (Town Law) requires the clerk to deposit all real property taxes collected within 24 hours of receipt and remit amounts collected, including interest and penalties, to the town supervisor at least once each week.² Once the town's tax levy has been satisfied, tax collections must be remitted to the county treasurer no later than the 15th day of each month. All remaining money related to tax collections should be remitted to the appropriate parties at the end of the collection period, with no remaining balance in the bank account.

Town Law requires the clerk to deposit all fees collected within three business days after the total received exceeds \$250 and to remit such money to the supervisor by the 15th day of the following month.³ In addition, the clerk must report and remit collections to certain State agencies.⁴

Preparing monthly bank reconciliations and accountability analyses comparing current assets to current liabilities enable the clerk to verify the accuracy of financial records, reports and remittances to the supervisor and other parties. In addition, the clerk is required to account, at least annually, to the board for all receipts and disbursements.⁵

1 General Municipal Law Section, 99-b

2 New York State Town Law (Town Law), Section 35

3 Town Law, Section 30

4 Department of Agriculture and Markets, Department of Health and Department of Environmental Conservation

5 Town Law, Section 123. Refer to our publication *Fiscal Oversight Responsibilities of the Governing Board*, available on our website at www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/fiscal_oversight.pdf.

Clerk B Did Not Properly Record, Deposit, Report or Remit Collections

Clerk A and Clerk C recorded and deposited all collections accurately and timely except for minor discrepancies, which we discussed with Town officials. However, Clerk B did not deposit and record all collections accurately and timely.

We identified a cash shortage totaling \$23,838 as of May 21, 2019 (Figure 1). In addition, Clerk B did not prepare monthly bank reconciliations or accountabilities or annually account with the Board for all receipts and disbursements.

Figure 1: Clerk B's Accountability Analysis as of May 21, 2019

Clerk's Assets	
Clerk fees bank account balance	\$2,859
Cash receipts on hand, not deposited	1,606
Tax collections bank account balance	1,276
Real Property Taxes Accounts Receivable - Underpayments	3
Total Clerk Assets	\$5,744
Known Clerk Liabilities	
Due to Treasurer	\$22,423
Due to Supervisor	5,791
Due to Taxpayers - Overpayments	1,182
Due to NYS Agriculture and Markets	96
Due to NYS Department of Health	90
Total Clerk Liabilities	\$29,582
Total Cash Shortage	\$23,838

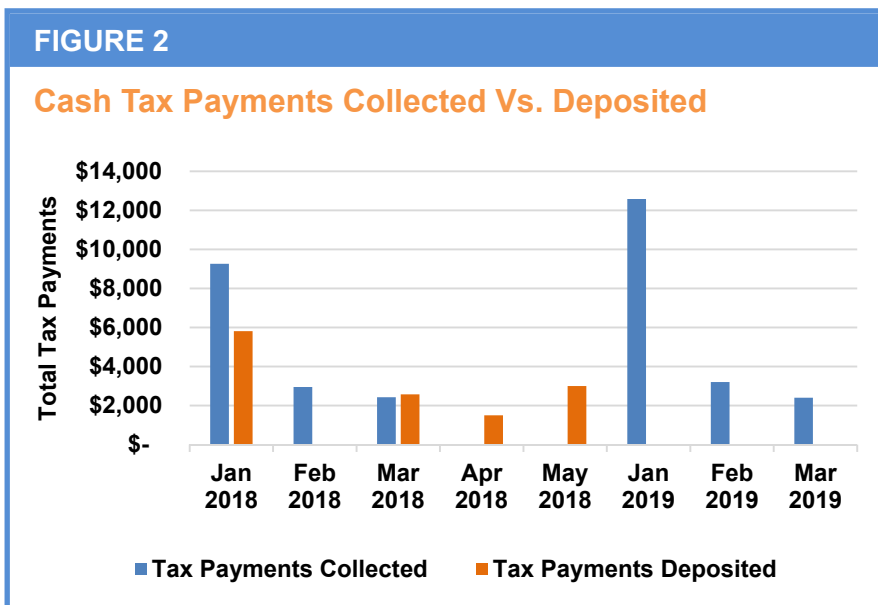
Had the Board conducted the required annual audit of the Clerk's records, they may have identified these discrepancies and determined the shortage.

Real Property Tax Collections – We reviewed all 1,775 real property tax payments collected by Clerk B in 2018 and 2019 totaling approximately \$2.9 million. We found that Clerk B did not deposit collections intact or timely, and that more than 90 percent were deposited between one and 32 days late.

In 2018, Clerk B failed to deposit cash real property taxes collected intact totaling \$1,757. After the Deputy County Treasurer notified Clerk B that a taxpayer provided proof of payment, she said she found an unrecorded cash payment of \$578 and remitted it to the Treasurer.

The remaining 2018 cash shortage of \$1,180 was concealed by two taxpayer overpayments and a duplicate payment that Clerk B failed to refund. In addition, to pay the Supervisor the 2018 real property tax penalties and interest, Clerk B made an unidentified cash deposit totaling \$3,001 on May 3, 2018, well after settling the tax collections with the Treasurer on April 16, 2018. In 2019, Clerk B did not deposit any real property taxes paid in cash totaling \$18,186 (Figure 2) and a \$1,300 check.

In addition, in 2019, Clerk B did not issue or retain duplicate receipts for any of the 888 real property tax payments collected totaling more than \$1.47 million. Similarly, in 2018, Clerk B did not issue or retain duplicate receipts for 307 of the 887 real property tax payments collected totaling \$535,044. Further, a majority (530 of 580) of the 2018 real property tax payment receipts were inadequate because they did not indicate the payment amount, composition or date.



In 2019, Clerk B did not deposit any real property taxes paid in cash totaling \$18,186...

None of the Clerks remitted real property tax collections to the Supervisor weekly. Instead, Clerk A and Clerk B remitted tax collections to the Supervisor in February after they collected the Town’s total tax warrant amount.⁶ Clerk C remitted payments to the Supervisor on January 14 and February 4, 2020. In addition, Clerk A and Clerk B did not remit real property tax collections to the Treasurer by the 15th of the month, as required. Due to the cash shortage, Clerk B remitted only a partial payment to the Treasurer totaling \$552,000 on April 15, 2019 and failed to make the final payment to the Treasurer totaling \$22,033 or payment for penalties and interest to the Supervisor totaling \$3,481.

⁶ Clerk A remitted tax collections to the Supervisor on February 2, 2017 and Clerk B on February 3, 2018 and February 14, 2019.

Clerk Fees – Clerk A and Clerk C accurately recorded, deposited, reported and remitted clerk fees except for minor discrepancies, which we discussed with Town officials. However, Clerk B did not record 111 transactions totaling \$1,202 in the cash receipts book or include them on monthly reports to the Supervisor (Figure 3).

Figure 3: Clerk B’s Unrecorded Transactions

Type of Transaction	Number of Transactions	Amount
Hunting and Fishing Licenses^a	77	\$281
Dog Licenses	30	450
Cleanup Day Fees	2	376
Building Permits	2	95
Totals	111	\$1,202

^a 59 licenses had no corresponding fees.

Of the \$1,202 not recorded, \$1,136 received in cash was also not deposited, the remaining two checks totaling \$66 were deposited. Clerk B failed to deposit another \$2,036 in recorded cash transactions. Because the records were inaccurate, the submitted reports and corresponding remittances were also inaccurate. Clerk B also failed to submit seven monthly reports to the NYS Department of Agriculture and Markets, as required.

In addition, Clerk B failed to issue duplicate receipts for all clerk fees, did not retain other forms of documentation, such as the daily transaction reports (the Clerk’s copies of receipts) generated by the NYS Department of Environmental Conservation (DEC) licensing system. Further, Town officials did not ensure that building permits and marriage and death certificates were press-numbered or inventoried so all permits and certificates sold could be accounted for. The lack of such controls and Board oversight helped to conceal the cash shortage we identified.

What Do We Recommend?

The Board should:

1. Consult with legal counsel and the insurance agent to recoup the missing money from Clerk B, refund overpayments and pay appropriate agencies the amount owed to them.
2. Perform an annual audit of the Clerk’s records.

The Clerk should:

3. Issue and retain duplicate receipts, recording the date, amount and form of payment, for all money received, when no other form of receipt is available.
4. Accurately record, deposit, report and remit all collections in a timely manner.
5. Prepare an accountability analysis each month comparing cash on hand and in the bank with liabilities due to the Supervisor and other agencies.

Appendix A: Response From Town Officials

TOWN OF POTTER
1226 Phelps Road
Middlesex, New York 14507
585-554-6758

March 21, 2021

Edward V. Grant Jr.
Chief Examiner – Division of Local Government
And School Accountability
The Powers Building
16 West Main Street – Suite 522
Rochester, NY 14614-1608

Re: Town of Potter – Town Clerk Report of Examination

Dear Mr. Grant:

Please accept this document as the response of the Town Board of the Town of Potter to the draft of the above referenced audit, the exit conference for which occurred on March 16, 2021. A review of the draft audit indicates findings of missing funds from the Town Clerk's Office from real property tax receipts as well as sales of DEC licenses and Department of Health documents.

Deficiencies are identified as to methodology within the Town Clerk' office as well as in oversight of that office. The audit further makes recommendations as to corrective actions that could avoid such deficiencies in the future.

The Town Board takes no exception to the content of the draft audit, either with respect to its findings or its recommendations for corrective measures. A report of the Town Board's corrective action plan will be submitted within the prescribed time frame.

The Town Board has the expectation of receipt of the final audit report in the near future.

March 21, 2021

Edward V. Grant Jr.
Chief Examiner – Division of Local Government
And School Accountability
The Powers Building
16 West Main Street – Suite 522
Rochester, NY 14614-1608
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Re: Town of Potter – Town Clerk Report of Examination

Sincerely,

Leonard Lisenbee - Town Supervisor
Cc:Town Board Members by Town Clerk
Town Clerk

Appendix B: 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 the Supervisor and Deputy Supervisor to determine the level of Board oversight.
- We interviewed Clerk C regarding practices and procedures for collecting, recording, reporting and remitting Clerk fees and tax receipts.
- We interviewed the Deputy County Treasurer to gain an understanding of the tax programs used by the Clerks.
- To determine whether real property taxes were recorded accurately and deposited timely and intact, we compared the payments recorded in the 2018 and 2019 Treasurer's tax software report to the duplicate receipts and deposit compositions for payee, amount and date. In addition, because Clerk A did not use a tax software in 2017, we compared the duplicate receipts to deposit compositions for payee, amount and date. We mailed confirmation letters to all individuals who paid their real property taxes in cash in 2018 or 2019 and to those individuals that records showed paid their taxes by check but were not deposited.
- To determine the number of dog licenses issued and paid, we summarized information from issued dog licenses on file, Clerk records of dogs and collections and customer confirmations. We mailed confirmation letters to dog owners who did not have license information on file for 2017, 2018 and 2019, when applicable.
- We reviewed the Clerks' receipt records and reports and compared them to dog licenses issued, duplicate receipt books, Code Enforcement Officer's records, DEC sales transactions, Department of Agriculture and Markets reports and deposit compositions to identify any unrecorded fees and determine whether the records and reports were accurate.
- We prepared accountabilities as of May 21, 2019 and December 31, 2019.
- We reviewed copies of canceled checks and bank statements for Clerk fees and real property tax collection accounts to determine whether all required remittances of real property tax collections and fees were paid.

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 size of the relevant population and the sample selected for examination.

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 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 Clerk's office.

Appendix C: 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

Contact

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