DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY

REPORT OF EXAMINATION | 2018M-64

Town of Aurora

Real Property Acquisition and Sale

SEPTEMBER 2018

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Contents

Report Highlights

Town of Aurora

Audit Objective

Determine whether the Town Board (Board) used an adequate process to purchase and sell real property in the most cost beneficial manner.

Key Findings

- The Board did not use an appropriate process when selling and acquiring property, resulting in the likely expenditure of more money than necessary:
  - The Town spent over $3.6 million to purchase and renovate the Southside Municipal Center (SMC). After an adjustment for the stated value of rent, we estimate the sale price was approximately $718,000 less than the cost to purchase and renovate the SMC.
  - The Town purchased a former fire hall, senior center and a residential building for $586,000. The Town estimates it will take $3 million to $4 million to renovate the building for use as a new Town hall.

Key Recommendations

- Use a deliberate process that fully considers all suitable options and long-term implications.
- Develop specific planning steps prior to initiating significant capital projects.

Town officials disagreed with our findings and recommendations. Appendix B includes our comments on issues raised in the Town's response letter.

Background

The Town of Aurora (Town) is located in Erie County and has a population of approximately 13,800. The Town is governed by an elected five-member Board, which is composed of four Board members and the Town Supervisor (Supervisor). The Board is responsible for operations and finances.

The Town purchased the SMC in 2008 and moved the Town hall to the SMC in late 2012. The building has 106,400 square feet of office space of which the Town currently occupies around 6,000 square feet. In 2016 the Board sold the SMC and purchased properties to use for a new Town hall.

Quick Facts	
2018 General Fund Budgeted Appropriations	$4.7 million
SMC Sale Price	$2.9 million
Cash Received from the Sale of SMC	$2.2 million

Audit Period

January 1, 2016 – February 13, 2018.

We extended our audit period back to December 10, 2007 to review the SMC acquisition and renovations.

Real Property Acquisition and Sale

What Should the Town Do When Purchasing and Selling Real Property?

A board is responsible for exercising due diligence when considering the purchase or sale of real property. A board has a fiduciary duty to secure the best price obtainable in its judgment or the most beneficial terms in the public interest. Before real property is acquired, a board should conduct a feasibility study, and estimate the potential costs, including the cost of any needed renovations.

When real property is no longer needed for town purposes, a board, upon adoption of a resolution subject to permissive referendum, may sell the real property. The method of sale chosen is within a board's discretion, but should be the one which a board believes will yield the best price or maximum financial benefits. To fulfill its fiduciary duty, a board should take appropriate measures, which may include obtaining one or more appraisals and using a real estate broker to identify potential buyers to help ensure that when the building is sold, the town realizes the maximum financial benefits.

Good Business Practices Were Not Followed for the SMC Sale

On July 25, 2016, the Board adopted a resolution declaring the Southside Municipal Center (SMC) surplus and agreed to sell the building to a private developer (SMC purchaser) for $2.2 million. However, the Board did not follow good business practices when it sold the SMC. The Board received only one offer for the property, did not use a real estate broker to identify potential buyers and did not publicly advertise the sale to obtain other offers, for a potentially higher selling price.

The Supervisor told us that he was approached by the SMC purchaser with interest in acquiring the SMC. A Town employee, who is a licensed appraiser, presented a formal property appraisal to the Board three days before it authorized the sale and estimated the property's market value at approximately $1.97 million. The Town purchased the SMC in 2008 for $1.8 million. From 2011 through 2016, the Town spent approximately $1.8 million on renovations and improvements to office areas, electrical, plumbing, roof, LED lighting and the parking lot.

On October 24, 2016, the Board approved an amended sales contract with the SMC purchaser that included an amended sales price of almost $2.9 million. As part of the sales contract, the Town retained ownership of certain property including several baseball fields.

Figure 1: Amended Sales Price Breakdown

Cash to the Town	$2,210,000
Add: New York Power Authority (NYPA) Loan Reimbursement[a]	$359,800
Add: Rent Credit[b]	$297,000
Total Revised Sale Price	**$2,866,800**
a The SMC purchaser will reimburse the Town for payments made on the loan over a 10-year period.	
b The Town will not be required to pay rent to the SMC purchaser in 2017, 2018 and 2019.	

The Town received $2.2 million in cash at the closing on November 1, 2016.

The SMC purchaser agreed to provide the Town with three years of rent (2017, 2018 and 2019) valued in the amended sales contract at $297,000 for approximately 6,000 square feet of office space ($16.50 per square foot per year). In addition to the rent credit, the Town agreed to pay the SMC purchaser monthly a common area maintenance fee of $1,125 and utilities of $795, for a total additional annual fee of $23,040.[1] The value of the rent credit was used to calculate a lower cash payment to the Town, and may be overstated. The Town charged tenants an average rental fee of $10.49 per square foot. Using this rate, the value of the rental credit would be $188,800, a difference of $108,200.

Prior to this, on May 11, 2015, the Board approved an energy efficiency project at the SMC, which was financed entirely as a loan by the New York Power Authority (NYPA). This project was completed in August 2016. According to Town officials, the NYPA loan is not transferrable. Therefore, the Town is required to make payments to NYPA until the loan is paid over a 10-year period.

According to the sales contract, the SMC purchaser was required to reimburse the Town within five days of notification from Town officials that the Town made a NYPA loan payment. However, the Town is still liable for the NYPA loan and the contract provides no assurance that the Town will receive the funds if the SMC purchaser sells the SMC or becomes insolvent. As of December 31, 2017, the SMC purchaser had properly reimbursed the Town for eight payments totaling approximately $26,000 leaving approximately $334,000 remaining on the NYPA loan reimbursement.

We compared the Town's cost of the SMC building including renovations with the sale price. We considered the value of the baseball fields that were retained by the Town and reduced the sale price for the adjusted rent credit. We estimate that the sale price was nearly $718,000 less than the cost incurred to purchase and renovate the SMC building. If the SMC purchaser ever failed to reimburse the Town for the NYPA loan (e.g., if the SMC purchaser sells the SMC or becomes insolvent), the difference would be greater.

1 The Town has the option to stay at the SMC for two additional years (2020 and 2021) for a total rental cost of $81,000. The rent would be $36,000 ($6 per square foot) in 2020 and $45,000 ($7.50 per square foot) in 2021. In addition, the Town would continue to be charged the common maintenance fee and utilities.

Figure 2: The Town's SMC Cost Versus Sale Price

The Town's Purchase Price	$1,820,100
Add: Renovation and Improvement Costs	$1,787,900
Less: Value of the Baseball Fields[a]	$131,600
Total SMC Cost	$3,476,400
Less: Sale Price (Figure 1)	$2,866,800
Less: Rental Credit Adjustment	$108,200
Recalculated Sale Price	$2,758,600
Difference	$717,800

a According to the Town Assessor, the assessed value of the baseball fields was $50,000. We estimated the market value by dividing this assessed value by the equalization rate (38 percent).

Town officials told us that the Board decided to the sell the SMC because the Town was presented the opportunity to purchase the former fire hall from the Village of East Aurora (Village) and they believed that the Town was not legally allowed to rent out excess capacity in Town-owned buildings to private entities. However, while towns are not authorized to engage in the real estate business, it is permissible for towns to acquire a building containing space in excess of its current needs and rent out the excess space, if a town reasonably anticipates using the excess space for town purposes in the foreseeable future.[2]

The Town plans to stay at the SMC until it can move to the former fire hall it purchased from the Village. Renovations are expected to be completed by December 31, 2019. Town officials told us that the intent of purchasing the SMC was to consolidate with other government offices. Subsequent to the purchase this did not occur. While Town officials would not have been required to sell the SMC due to excess capacity, they should have obtained a consolidation commitment from these entities before purchasing the SMC.

We noted that the Town had an average annual SMC rent revenue of $536,000 during its ownership, with average expenses, including depreciation, of $309,000. This resulted in an average annual surplus of $227,000. SMC operations were accounted for in an enterprise fund. As of December 31, 2015, the year before the Town sold the property, the enterprise fund equity totaled $1.6 million. Because the Town was accumulating a surplus from rental income, we question whether it was a good decision to sell the building, especially at an amount less than the purchase price and the cost of renovations and improvements.

After the SMC sale, the enterprise fund's equity was almost $2.6 million.[3] Because surplus from the rental of property can be used for town-wide purposes, Town

2 Refer to New York State Comptroller's (OSC's) Opinion 81-197, as an example.

3 Includes cash from the SMC sale of $2.2 million and rental income of approximately $1.1 million less approximately $700,000 for the loss on the sale.

officials transferred $906,000 to the town-wide general fund. The remaining funds of approximately $1.7 million were transferred to a mandatory reserve for debt service to pay the remaining debt on the Town's SMC purchase ($525,000), SMC renovations ($590,000), parking lot/HVAC improvements ($420,000) and estimated interest ($165,000).

Good Business Practices Were Not Followed When Acquiring Other Real Property

On June 27, 2016, the Board discussed the option to purchase the senior center for $350,000 and the former fire hall located next to the senior center for $100,000. Although both properties were owned by the Village, Town officials leased the senior center for approximately 17 years. Town officials planned to convert the fire hall into a new Town hall.

Officials told us that a primary reason for purchasing the fire hall was that they did not want the Town to lose the fire hall parking lot, if the Village sold the property to a developer, because the parking lot was used by the senior center. In addition, officials told us that property available for purchase in the Town is limited.

On July 25, 2016, the Board authorized the purchase of both buildings for $450,000. In July 2017, the Town purchased a residential building next to the fire hall for $137,000. Town officials planned to demolish this building to create additional parking at the new Town hall. As of December 31, 2017, the Town spent a total of approximately $719,000 to purchase these three properties and for preliminary renovation costs.[4]

The Board did not follow good business practices before it purchased these properties because it did not conduct a feasibility study for the proposed project, develop a project budget, obtain estimates for the cost of renovations (necessary to convert the building into Town hall) or obtain a professional appraisal[5] to establish the approximate value of the properties before it approved the purchases.

Town officials told us they did not perform a feasibility study because they had an architect view the fire hall and provide an opinion before the purchase was made. However, officials were unable to provide written evidence showing the architect's assessment. The Village conducted an engineering study before selling the fire hall showing that it could cost at least $500,000 to make the fire hall comply with the current building code. Town officials were aware of the study and told us that it would have little effect on the Town because they planned to fully renovate the interior.

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4 This includes purchase of these properties of $450,000 and $137,000 plus preliminary renovation costs of $132,000.

5 The Town obtained a professional appraisal of $136,900 for the residential building.

Although Town officials told us the estimated cost to convert the fire hall to the Town hall ranged from $3 million to $4 million, the Board has not adopted a budget for these renovations.

The Supervisor provided us with an architect's estimate totaling $5 million for renovations, dated February 19, 2018 (after the Town purchased the building). However, the Supervisor told us that he felt this estimate was more than the renovations would actually cost, but could not provide us with any other written estimates or specifications. The planned renovations included demolishing the fire hall's interior, constructing offices and installing new roofs on the fire hall and the senior center. Town officials estimate the Town may spend a total of $4.2 million[6] on the new Town hall project, or 17 percent more than the SMC's purchase price plus renovations and improvements. The costs could be even greater if the architect's estimate turns out to be accurate.

Because the Board did not use an appropriate process when acquiring and selling real property, the Town may have expended more money than necessary.

What Do We Recommend?

The Board should:

1. When selling unneeded real property, take appropriate measures to ensure the sale will yield the best price obtainable or maximum financial benefits.
2. Obtain one or more independent appraisals on real property it intends to purchase or sell to help ensure the price is reasonable.
3. Review the financial impact before making the decision to sell an unneeded building and help ensure it is the best financial decision for the Town.
4. Exercise due diligence when acquiring real property using a deliberate process that fully considers all suitable options and long-term implications.
5. Ensure an appropriate process is used that requires specific planning steps for all significant capital projects.

6 $3.5 million for Town officials' estimated renovation and improvement costs (no written estimate was provided), $587,000 for the purchase of the properties and $132,000 for preliminary renovation as of December 31, 2017.

Appendix A: Response From Town Officials

TOWN OF AURORA
Southside Municipal Center
300 Gleed Avenue, East Aurora, NY 14052
www.townofaurora.com

August 23, 2018

Jeffrey D. Mazula
Chief Examiner
Office of the New York State Comptroller
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Re: Response to Audit Report

Mr. Mazula:

See Note 1 Page 12

The New York State Comptroller's Office provided the Aurora Town Board with its findings on the purchase and sale of real property in the Town of Aurora. Unfortunately, the Comptroller's report is focused on a very small period of time and fails to take into account 18 years of research, financial planning, and public discourse that went into the decision-making process for the bonding of the Southside Municipal Center facility, the sale of the Southside Municipal Center facility, and the purchase of the Senior Center/Fire Hall. The Town Board respectfully provides the following information and response to the Comptroller's Office, the residents of the Town of Aurora, and the public at-large.

1) The Comptroller's report fails to recognize the long history and search for facilities to house Town (and Village) municipal services. A history of the 18-year process is summarized in the timeline below.

2000: The Town and Village formed a Joint Services Committee to examine the potential for Town and Village office consolidation for both buildings and services. The committee was unable to identify any viable alternatives with the Village for a combined facility.

2001-2002: The Town Board proposed purchasing a facility on Quaker Road for $800,000, with little renovation needed and concurrently proposed selling Town Hall to the Wendt Foundation. The purchase of the facility on Quaker Road failed due to the seller receiving a cash offer over the Town's contingent offer (which included needing to wait on SEQR and a public hearing).

2002-2007: The Town Board performed a title search, SEQR, and an environmental study before closing on the sale of Town Hall to the Wendt Foundation. Meanwhile, a joint facility committee was again put together to determine the feasibility of combining Town and Village offices.

Late 2007-2008: The Town Board researched the Gleed facility, and on December 27, 2007, a resolution was presented authorizing the Supervisor to offer to purchase the Gleed facility. In January, 2008, the Town Board approved the purchase.

2008 -2010: The Shared Municipal Services Initiative (SMSI) grant allowed the Town and Village to again form a committee to study combining Town Hall, Village Hall, and the Aurora Town Library into one facility. The Town Board reviewed the SMSI recommendation within the context of the Town's entire finances and presented the findings at a public joint Village-Town meeting. The Town Board did not recommend an $8.9 million bond to construct the facility, as the savings from the joint facility were not enough to justify the costs. The Town engaged [redacted] to conduct a building systems evaluation of the Gleed facility, including the development of a Capital Needs Assessment and feasibility study.

2011: Upon completion of the Capital Needs Assessment/Feasibility Study, the Town Board reviewed three available options, including pros/cons and tax impacts, and determined that moving to the Gleed facility was not only the lowest cost option, but the *best available* option. The Board held a public referendum on a 15-year bond for the renovations and immediate capital improvements; the referendum passed by a 2-1 margin. Residents against the move were concerned about their government being in the rental business, owning a building larger than what was needed, and moving municipal services away from the core of the Village.

2012: The Town completed renovations of the Gleed facility, and renamed it the Southside Municipal Center (SMC).

2016: The Town Board was presented with a unique opportunity to sell the SMC facility and evaluated the opportunity. As projected, the rental revenue from tenants had covered the bond payments for the purchase and renovations to the building, as well as maintenance costs over the prior five years. This had allowed the Town to gain equity in the building without cost to the taxpayer. The Town Board reviewed the rewards (revenue income from tenants, baseball diamonds behind the building for recreational space, and auditorium for meetings) and the risks (future predictability of the tenant base and revenues, building larger than necessary for Town Hall use only, time spent on tenant issues, future market for commercial property) of continuing to own the SMC facility. The offering price strongly reflected the appraised value of the property, allowed the Town to retain ownership of the ball fields, and also allowed the Town to remain in the building until a new location was developed. The Town Board diligently reviewed the offer with its bond counsel, financial consultants, and attorney before deciding to approve the sale. The sale of the SMC closed on October 31, 2016.

At the same time, the former Village Fire Hall, contiguous to the Town Senior Center, was on the market. The Senior Center was already under negotiation to be purchased by the Town based on the lease with the Village expiring, and the Town was concerned there may not be enough parking for the Senior Center should another buyer purchase the fire hall. The opportunity to purchase the entire Fire Hall was then reviewed by the Town Board. This location provided a Town Hall site closer to Main Street, the ability to develop a Village property that needed rehabilitating, and provided for continued municipal use of an existing municipal building, as preferred by the State Comptroller.

See Note 2 Page 12

The Town Board completed negotiations with the Village, scheduled a public hearing for community input (all positive) and completed the purchase of the Village Fire Hall and Senior Center.

2018: The Town Board and Village Board agreed to jointly house their municipal buildings in the old Fire Hall while keeping the Town Courts and Village Police Departments within Village Hall; consolidating Village and Town services in a single location for residents.

See Note 3 Page 12

The Town Board believes the Comptroller's report does not take into account the years of due diligence executed by the Town Board (financial advice from bond counsel/ financial staff, public input from residents through public meetings and referendums, legal counsel from the Town Attorney) in the sale of the SMC property and the purchase of the Senior Center/Fire Hall. The Town Board believes it used a sound, open, and deliberate process fully considering all suitable options and long-term implications.

2) The Comptroller's report fails to recognize the desire of Town of Aurora residents to reuse and rehabilitate a building in the core of the Village, nor does it recognize the Town residents' and Town Board's desire to mitigate the risk associated with the property management of a large non-municipal building.

3) The Comptroller's report fails to take into account the time the Supervisor and municipal staff were putting in dealing with tenants of the Gleed building, establishing rental rates, marketing the property and finding new tenants. The Town was lucky to have Supervisors and staff that had the knowledge and willingness to take on these additional responsibilities. If a property manager had to take on these duties, the Town would have had to pay an additional $60,000 per year.

4) The Comptroller's report fails to recognize the cost of not keeping the recreational ball field property, and the value of the baseball fields to the Town of Aurora are under estimated. Vacant land in the Village is not available and almost non-existent; case in point, the Village of East Aurora purchased a 1.7-acre site for its new fire station with an existing dentist office on the site that had to be demolished before construction for $373,000. The Village could not find property in or near the Village, as several sites were sold before the Village could even purchase them. The ball fields were appraised at $180,000 in 2008 (land values have gone up since then), but even using the Comptroller's reduced value of $108,200, one does not get the full story on the true value of the property to the Town. These land values acknowledge the fact that the fields are landlocked and a buyer without any contiguous property to the fields would have limited access. The Town however, *does* own contiguous property (housing our pool, tennis courts, and two additional ball fields) making the value to the Town greater than the value for an outside buyer purchasing property. If the Town Board included the ball field property in the sale of the SMC, finding replacement property for the ball fields (*if property could even be found)* would be extremely costly (upwards of $90,000 per acre in the Village would be a reasonable estimate, resulting in over a half million dollars expense to the Town to replace the ball fields). The Comptroller's report fails to recognize the full value of the recreational ball fields to the Town of Aurora and its residents.

See Note 4 Page 12

5) The Comptroller's report does not take into consideration the risks that are associated with the potential and real threat of loss of rental income if one or more tenants move out of South Side. The BOCES tenant had already moved out of the building reducing rental income by over $125,000, and the Explore and More tenant is slated to move out once its new building is completed in downtown Buffalo, losing another $43,000 in rental income. Combine these "knowns" with the unknown of a larger tenant moving out, and the financial risk of remaining in the building increases greatly. In fact, just after the sale of the building, the largest tenant did not renew its lease, decreasing revenues by an additional $257,000. When the Comptroller's report states, "We question whether it was a good decision to sell the building," it suggests that the Town should have been willing to take greater risk with the taxpayer's money despite another path being available to the Town (purchase of the Fire Hall). The Town disagrees with that assessment and believes the correct path to take was to mitigate the taxpayer's rental risk by taking advantage of the opportunity to purchase the Senior Center/Fire Hall for a new municipal center.

6) The Comptroller's report fails to take into consideration that the Town Board included in its decision-making process that the purchase of the old fire hall allowed for the possible future sharing of the building with the Village, guaranteed parking for the Senior Center, and was located in a walkable part of the Village (a high priority for residents). In addition, the rehabilitation of the Fire Hall eliminated an eyesore from the Village.

7) The Comptroller's report fails to recognize additional revenue that is placed back on the tax rolls from the sale of the SMC building ($41,364), while not taking any additional tax revenue away at the new Fire Hall/Town Hall location since it is a municipal re-use.

See Note 5 Page 12

8) New York State Comptroller Opinion 90-37 talks about considerations a municipality can review as part of a property sale. The fact that the developer purchasing the SMC property had a long record of successful projects and maintains its facilities in excellent condition was also a factor the Town considered in the decision-making process.

9) The Comptroller's report fails to take into account the purchaser's willingness to split off the newly renovated recreational ball fields adjacent to the Town owned pool property, nor does it take into account the advantage to the Town of the purchaser allowing the Town to remain in the facility until completion of its new Town Hall at reduced rates. The Comptroller's opinion that additional offers "could" have provided a higher selling point, does not take into account that another offer may not even arise and the current purchaser may walk away. The purchaser provided to us all that the Town needed (a price that strongly reflected market value, the ability to keep the ball fields, the ability to stay in the building for several years while constructing our new Town Hall) at the same time a suitable location for a new Town Hall was available.

10) The Comptroller's report states that the Town is still liable for the NYPA (New York Power Authority) loan, as the contract provides no assurance that the Town will receive the funds should the purchaser sell the building. While we agree this may be an issue, the Town does have the right to sue for payments if they are not made and the loan assumption/payment would then transfer to the new purchaser.

See Note 6 Page 12

11) The Comptroller's report specifically lists the expenses for the SMC facility, but ignores the rental revenues that were used to cover these expenses. While the Town owned the SMC facility, all bond payments and maintenance costs were paid out of these rental proceeds, creating the equity the Town received upon the sale of the facility. Considering only the expenses without matching revenues when determining the profit upon the sale of the building, only tells half a story. One must also include the revenues that remained in the bank from the rental income prior to the sale and also the rental revenues that went into creating the equity in the building. When you match the revenues with the expenses, the final amount in the bank after the sale to use toward the new municipal building at the old Fire Hall was more than $900,000.

See Note 7 Page 13

12) The Comptroller's report criticizes the Town Board's decision to sell the SMC facility without the use of a real-estate broker. However, by law, the Town is able to sell real property with or without a broker, as long as the selling price is at or above the appraised value of the property. By not using a real-estate broker, the Town saved the taxpayers a large commission fee (5%) estimated at approximately $100,000.

13) The Comptroller's report fails to recognize that a prior appraisal of the Fire Hall property was completed by the Village of East Aurora in 2014. This appraisal valued the Fire Hall at a property value of $185,000. The Town did not contract for an additional appraisal, as property values in the Village have only increased since that time and the Town was purchasing the property for $100,000, well below the appraised value from just four years prior. The report also fails to recognize that the appraisal of the SMC property was completed by a highly qualified, licensed appraiser, well respected in the Western New York community.

14) The Comptroller's report fails to recognize the amount of investment the Town already has in the Senior Center. Since 2000, The Town has invested *more than $1.2 million* in improvements and renovations to the Senior Center. Not purchasing the Senior Center for $350,000 (the lease with the Village was set to terminate) would entail also giving up the large investment in improvements already made to the Senior Center by the Town. The assessed value of the Senior Center is listed on the tax rolls as $687,400. Using the 2018 SEV rate of 35%, the market value of the Senior Center is estimated at $1,964,000. With a prior investment of $1.2 million in improvements to the building, a pre-negotiated contract with the Village already in place to purchase the building for $350,000, and an estimated market value much, much greater than the asking price, the Town determined that contracting and paying for an additional appraisal of the building was not necessary. In addition, the ability to keep the parking around the facility for use by our senior citizens was, in the opinion of our Town Board, priceless.

In conclusion, the Town Board believes it used a sound, open, and deliberate process fully considering all suitable options and long-term implications while listening to the needs and desires of the Town residents. The Town reviewed the financial impact to the taxpayers of selling the SMC and carefully considered the risks and rewards associated with continuing to own a building that was much larger than needed for the Town's municipal use. In doing so, the Town Board believes it provided the best outcome for the residents of the Town of Aurora.

Per the audit process, the State Comptroller's office has the opportunity to respond to the Town of Aurora's official audit response and therefore receives the "last say" in this process. The Town of Aurora welcomes any resident to talk to our board at any time should they have any questions regarding the sale of the SMC and the purchase of the Senior Center/Fire Hall.

Best Regards,

James J. Bach
Aurora Town Supervisor

Appendix B: OSC Comments on the Town's Response

Note 1

After our review of the Town's response letter, we concluded that we did not need to modify our report. Many explanations in the response appear contradictory and do not clarify or demonstrate how these real estate transactions were in the Town's best financial interests. For example, officials indicated that the SMC's rental revenues were sufficient to cover all bond payments and maintenance costs, and still generate surplus funds.

However, officials also indicated the Town should sell the SMC, in part because they may be unable to lease the excess space. Meanwhile, officials further indicated that the Town should purchase the fire hall/senior center, which will require substantial renovations, in part due to the high demand for property in the Village. Yet, the Town previously owned a building in the Village (i.e., the SMC) that had significant space and parking that could meet certain Town needs, such as a senior center program.

Note 2

We are unclear what preferences Town officials are referring to.

Note 3

This was subsequent to our audit fieldwork.

Note 4

The baseball fields were constructed in 2012. The report indicates that these fields are valued at $131,600 ($108,200 was the difference between the contracted rent credit and the recalculated rent credit).

Note 5

New York State OSC's Opinion 90-37 discusses situations when a prospective purchaser of unneeded municipal real property has a proposed use for that property. The opinion states that a local government may accept the lower of two offers for the property if the local government, reasonably and in good faith, determines that the proposed use will ultimately bring the greatest amount of revenue to the local government. The opinion further notes that local officials must be prepared to objectively demonstrate that there is a reasonable expectation that the proposed use will actually be implemented. The opinion does not address situations in which a prospective purchaser merely has a past record of successful projects and well-maintained facilities.

Note 6

The average surplus on the SMC rental is discussed on page 4 of our report.

Note 7

Our report refers to the use of a broker as one step officials may take to help obtain the maximum financial benefits when selling real property. Our report does not state that the Town was required by law to use a broker.

Appendix C: 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 to gain an understanding of the processes for the property acquisition, renovations and sale.
- We reviewed Board minutes from 2007 to present for information relating to the property acquisition, renovations, sale and financing.
- We reviewed all available records concerning the SMC acquisition and sale, fire hall, senior center and residential building acquisition including:
  - Purchase agreements
  - Purchase contracts
  - Appraisals
  - Closing documents
  - Loan agreements
- We reviewed the cost to renovate the SMC and the estimated costs to renovate the fire hall and senior center.
- We recalculated the rental credit for the SMC sale based on the average rental fee (per square foot) received by the Town annually, we recalculated the sales price of SMC and the fair market value of the baseball fields.
- We reviewed documents related to the financing of the purchases of real property and renovations.

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

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 D: Resources and Services

Regional Office Directory
www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas
www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems
www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management
www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans
www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders
www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.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/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers
www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics
www.osc.state.ny.us/localgov/academy/index.htm

Contact

Office of the New York State Comptroller
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