

Town of Batavia

Water and Sewer Operations

MAY 2018



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

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Report Highlights

Town of Batavia

Audit Objective

Determine whether the Town properly accounted for water and sewer operations.

Key Findings

- The Board did not adopt individual budgets and the Supervisor did not maintain separate accounting records for each special district.
- The Supervisor did not account for revenues and expenditures associated with improvement areas in the general fund as required by New York State Town Law.
- The Supervisor did not separately account for the revenues and expenditures from the intermunicipal agreements with neighboring towns, to ensure that revenues cover operating costs.

Key Recommendations

- Prepare budgets and maintain appropriate financial records for each special district.
- Properly account for Article 12-C improvement financial activity in the general fund.
- Properly account for intermunicipal agreement financial activity in a separate fund.

Town officials generally agreed with our recommendations and indicated they plan to initiate corrective action. Appendix B includes our comment on an issue raised in the Town's response.

Background

The Town of Batavia (Town) is located in Genesee County (County). The Town is governed by an elected Town Board (Board) composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management of Town finances, including the adoption of the annual budget.

The Town provides water and sewer services to customers located in the Town's water and sewer districts; through New York State Town Law (Town Law) Article 12-C improvements; and through agreements with neighboring towns. Town officials are responsible for maintaining appropriate financial records and providing oversight of these water and sewer operations.

Quick Facts

2016 Budgeted Water Appropriations	\$1,657,093
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Water Customers	2,310
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2016 Budgeted Sewer Appropriations	\$1,059,427
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Sewer Customers	679
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Audit Period

January 1, 2016 – December 5, 2017

How Should the Town Account for Water and Sewer Operations?

Special Districts – The Board established 16 water districts and four sewer districts in the Town.¹ Costs of these districts are raised by assessments against benefited properties in the districts and/or fees charged to users of the districts' services. Since each water and sewer district constitutes a separate accounting entity with its own assessment base, the Board should adopt a separate annual budget for each district and the Supervisor should maintain a full set of general and subsidiary ledger accounts for each district. Separate budgets and accounting records would enable the Board and Town officials to properly monitor the finances of each district and help to provide a basis for determining proper rates to be charged for water consumption and sewer use in each district. Special district operating and maintenance costs are typically funded with water and sewer rents.

Improvements – The Town provides water and sewer services to additional customers through New York State Town Law Article 12-C. Water and sewer improvements may be undertaken without the formation of a special district.² We identified nine water and sewer improvement areas. Revenues and expenditures associated with improvements should be accounted for in the general fund. A town can charge the associated capital costs to an area of benefited properties; by imposing a general tax levy; or by a combination of both. User fees also may be used to fund both operation/maintenance and capital costs. Each new project constructed pursuant to Article 12-C represents a separate and distinct improvement.

Intermunicipal Agreements – Finally, the Board entered into five intermunicipal agreements with neighboring towns to lease, maintain, repair and operate the water facilities located in those towns. The Supervisor should account for the revenues and expenditures from these activities in separate funds, to ensure revenues cover operating costs and that the Town is not subsidizing these operations. For 2016, the Town received revenues of over \$48,000 from these operations. Municipalities generally participate in intermunicipal agreements to reduce program costs.

¹ See Articles 12 and 12-A of Town Law.

² While water and sewer improvements and water and sewer districts both function to provide water and sewer services to the Town's benefited properties, the method of forming, assessing and improving each is distinct and different. Among the differences between an improvement under Article 12-C and a district are that (1) a district apportions costs among the benefited properties within the set boundaries that are determined when the district is established; (2) an increase or improvement of facilities within the district may be undertaken without establishing a new district or improvement; (3) the cost of a sewer district can only be raised on a benefit basis to the extent not raised by user fees; and (4) the threshold for requiring the Comptroller's consent, assuming debt will be issued, is based on different criteria.

Separate Special District Budgets and Accounting Records Were Not Prepared and Maintained

The Board did not adopt individual budgets and the Supervisor did not maintain separate accounting records for each water district. Instead, the Board adopted one operating budget that combined all water operations. In addition, the Board adopted two sewer district budgets, even though it established four sewer districts,³ and the Supervisor maintained one set of accounting records for all sewer operations. As a result, the Board and Town officials cannot monitor each district's financial condition to determine if each district is self-sufficient. This increases the risk that customers in districts with low operating costs may be subsidizing other water and sewer operations with higher operational costs. In addition, the Board does not set user fees for each district to ensure fees cover each district's operating costs; instead, the Board adopted a single rate structure for water fees and for sewer fees covering all customers.

The Town reported an operating surplus of \$70,020 for combined⁴ water operations and \$68,302 for combined⁵ sewer operations in 2016. We analyzed the operating results for the four (of 16) water districts and the two (of four) sewer districts⁶ without adopted budgets to determine whether they were self-sufficient.⁷ All four water districts had estimated operating deficits ranging from \$1,031 to \$3,900. Therefore, customers in other water districts may be subsidizing operations in these four districts. For the two sewer districts, we estimated that one had an operating surplus of \$3,800 while in the other, revenues matched operating costs. Separate records would ensure that each district's financial resources remain separate so the Board can properly assess each district's financial condition and set appropriate rates for user fees to fund operations.

Officials indicated that maintaining additional records, by district, will increase costs. However, Town Law Section 208 allows the Board to provide for the joint administration and operation of certain improvements and functions among special districts. The Board, by resolution, can fix a method for equitably allocating costs between or among the various participating districts for certain joint improvements and functions, and each participating district should be charged its equitable share of the common costs and expenses.⁸ There was no

³ The Town appropriately budgeted water and sewer capital costs by district.

⁴ This includes operations in water districts, water improvements and areas covered by the intermunicipal agreements.

⁵ This includes operations in sewer districts, sewer improvements and sewer services provided outside the Town.

⁶ The districts for which the Board did not adopt annual budgets

⁷ We judgmentally selected smaller districts because Town officials had to manually extract, by customer, the water and sewer rent receipts from the billing system. We also used water consumption to apportion costs.

⁸ A joint fund under Town Law Section 208 would be comprised of only common costs and expenditures of participating special districts. A separate fund should be maintained for each district's revenues and expenditures. Each district's share of the common costs and expenditures pursuant to Town Law Section 208 are then transferred from each special district's fund to the joint operating fund.

evidence that the Board had determined an equitable method to allocate costs or had adopted a resolution addressing this matter.

Because the Board did not adopt individual budgets and the Supervisor did not maintain separate accounting records for each district, Town officials cannot adequately monitor water and sewer district operations and determine whether each district is self-sufficient.

Revenues and Expenditures of Improvements Were Incorrectly Recorded

The Supervisor does not account for Town Law Article 12-C improvement revenues and expenditures in the general fund. The improvements' financial activity is incorrectly combined with the Town's special districts and the intermunicipal activity.

The Town established improvements over time to provide either water or sewer services. These projects were financed through grants, developers' contributions and debt. When the Town issued debt, the Town charged the associated capital costs to the benefited properties, and imposed user fees to fund operation and maintenance costs. Once an improvement's debt was paid off, the Town did not maintain records relating to the specific improvement so officials could not easily identify the number of improvements or the corresponding water and sewer customers that were in the improvement area. Officials believed that improvements are created for a particular project, and that once the project is completed and the corresponding debt paid off, these improvements became part of a special district.

We analyzed the revenues and expenditures associated with two water and two sewer improvements, of the nine improvement areas that we identified. We estimated that the four improvements' expenditures exceeded revenues by \$6,300.⁹ Because the Supervisor accounts for financial activity of water and sewer operations on a combined basis, it is likely that other water and sewer customers are subsidizing the shortfalls incurred by these improvement areas (see next section).

Revenues and Expenditures From Intermunicipal Agreements Were Incorrectly Recorded

The Town entered into five intermunicipal agreements with neighboring towns to lease, maintain, repair and operate the water facilities located in the neighboring towns, and supply water services directly to those customers. The agreements

⁹ We estimate that one water improvement had an operating deficit of \$1,100 and the other had an operating deficit of \$400. One sewer improvement broke even and the other had an estimated operating deficit of \$4,800.

allow the Town to bill the customers located in the neighboring towns and to collect and retain the revenues. The Town charges these customers the same rate it charges Town customers.

The Town does not separately record the revenues and expenditures associated with providing these intermunicipal services in a separate fund. Revenues and expenditures derived from the intermunicipal agreements are recorded with the Town's districts and improvements in the water fund. Revenues generated from these agreements amounted to over \$48,000 for 2016. In 2017, the Town executed three more agreements which will result in increased revenues and expenditures from the intermunicipal activities.

Adequate financial records showing revenues and expenditures from the intermunicipal agreements would allow the Board to make informed decisions on whether to renew or terminate the agreements or to request an increase or reduction in the user fees. If the Supervisor accounted for these activities in a separate fund, it would provide the Board with the necessary financial information to make informed decisions. Our audit found that separate accounting records are not kept, and therefore the Board has no basis to evaluate the benefit of these agreements to the Town and to the benefited properties.

What Do We Recommend?

The Board should:

1. Adopt individual budgets for each special district.
2. Review special-district operations with the Town's attorney and determine whether a resolution authorizing the formation of a joint function is necessary to equitably allocate costs between or among the special districts.
3. Monitor the financial condition of each special district and ensure that each district is self-sufficient.
4. Periodically review financial activity associated with intermunicipal agreements and ensure that revenues cover operating costs and that user fees are appropriate.

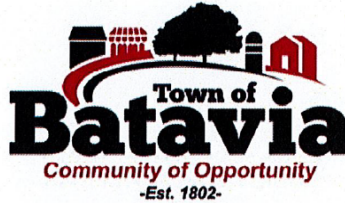
The Supervisor should:

5. Establish and maintain a separate set of accounting records for each special district.

-
6. Properly account for Article 12-C improvement financial activity in the general fund.
 7. Properly account for intermunicipal agreement financial activity in separate funds.

Appendix A: Response From Town Officials

Gregory H. Post, Supervisor
Daniel G. Underhill, Deputy Supervisor
Patti Michalak, Councilwoman
Sharon White, Councilwoman
Chad Zambito, Councilman



Teresa M. Morasco, Town Clerk
Thomas Lichtenthal, Highway. Supt.
Michael Cleveland, Town Justice
Thomas Williams, Town Justice

3833 West Main Street Road Batavia, New York 14020-9402
Phone: (585) 343-1729 Fax: (585) 343-8461 TDD: 1-800-662-1220 www.townofbatavia.com

May 4, 2018

Mr. Jeffrey Mazula, Chief Examiner
Office of the State Comptroller
Buffalo Regional Office
295 Main Street, Room 1032
Buffalo, New York 14203-2510

RE: Town of Batavia
Response to Preliminary Draft Findings

Dear Mr. Jeffrey Mazula:

First, we would like to thank you and your office, especially [REDACTED] for a thorough audit of our water and sewer operations. We have taken pride in providing the best service at the most affordable cost to our constituents as a local subdivision of the State.

Although the report can only discuss areas of operations which can be improved in accordance with state law, we did want to highlight those areas which we feel we excel at. They are as follows:

- A billing system and process that allows income and expense tracking to balance to the \$0.01. It is our understanding that we are one of the few, if not the only, municipality that accomplishes this
- Efficiency of operations
- Shared services with other Towns/Villages/County/City
- Master asset management and planning for the future
- Master Consolidation Plan
 - Strategic Plan developed in 2006 to build out and repair the system with small Districts/Improvement Areas to leverage the most state and federal funding
 - Consolidate our water and sewer operations first (completed in 2007)
 - Lastly, when system is nearing completion of build out, consolidate all Districts and Improvement Areas, both water and sewer
 - Anticipate consolidation to be completed in 2019

We concur with the findings of the draft "Report of Examination 2018M-12" which are:

- a) The Board did not adopt individual budgets and the Supervisor did not maintain separate accounting records for each special district

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Gregory H. Post, Supervisor
Daniel G. Underhill, Deputy Supervisor
Patti Michalak, Councilwoman
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- b) The Supervisor did not account for revenues and expenditures associated with improvement areas in the general fund as required by New York State Town Law
- c) The Supervisor did not separately account for the revenues and expenditures from the intermunicipal agreements with neighboring towns

In regard to recommendations from the draft "Report of Examination 2018M-12", we believe another option exists to correct the findings of a and b above. As we are currently nearing completion of our Master Consolidation Plan, we will be able to accomplish your recommendations of the formation of a "joint function" in a different way. Our local and bond attorneys have been assisting us with carrying out this Master Consolidation Plan and it is their opinion that this would accomplish the same thing as the "joint function". We would then respectfully request consolidation option be added as an alternative.

See Note 1 Page 9

Lastly, since we had already consolidated our internal water and sewer operations, including combined budgeting, we acknowledge individual Districts/Improvement Areas could only be "estimated". Therefore, we feel the surpluses or deficits identified in the report could be nearer to zero based on our income and expense tracking and financial process.

Again, we thank you so much for the work your office does to help us identify opportunities for improving operations and governance. We look forward to the final report and for the opportunity to modify our Strategic Plan as necessary in our Corrective Action Plan.

Very truly yours,

Gregory H. Post
Town Supervisor

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Appendix B: OSC Comment on the Town's Response

Note 1

We did not modify the draft report to add consolidation as an option. We encourage the Board and Town officials to continue to consult with their legal counsel when deciding how best to address the recommendations.

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, we performed the following audit procedures:

- We interviewed Town officials to gain an understanding of the Town's budgeting practices and accounting procedures.
- We reviewed Board minutes and resolutions related to the creation of the special districts and improvements.
- We reviewed the Board-adopted budget for 2016 to evaluate whether individual budgets were developed and adopted for each special district.
- We reviewed the accounting records for 2016 to determine whether water and sewer operations were properly recorded.
- We reviewed billing data, estimated revenues, expenditures and operating results for four water districts, two sewer districts, two water improvements and two sewer improvements.
- We reviewed the Town's intermunicipal agreements with neighboring towns.

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
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/localgov/index.htm

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BUFFALO REGIONAL OFFICE – Jeffrey D. Mazula, Chief Examiner

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Buffalo@osc.ny.gov

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