

Village of Dering Harbor

Board Oversight

JUNE 2020



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

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Report Highlights

Village of Dering Harbor

Audit Objective

Determine whether the Board provided adequate oversight of the Village's financial operations.

Key Findings

The Board:

- Failed to comply with statutory requirements when presenting and adopting budgets for 2013-14 through 2018-19.
- Underestimated revenues by a total of \$151,908 (9.5 percent) and underestimated appropriations by a total of \$210,126 (13.1 percent) over the past five years (2013-14 through 2017-18). As a result, the general fund realized operating deficits in four of the five years and general fund balance declined from \$61,710 to \$3,491.
- Did not properly authorize a local law to exceed the tax levy limit. The 2018-19 levy exceeded the calculated limit of \$331,470 by \$65,143.

Key Recommendations

- Ensure tentative and adopted budgets comply with statutory requirements.
- Develop and adopt budgets that include realistic estimates of revenues and expenditures for both the general fund and capital projects.
- Monitor budgets on a monthly basis to ensure that budget line items are not overspent and the Board can take corrective action if necessary.

Village officials disagreed with one of our findings but indicated they have taken or plan to take corrective action. Appendix B contains our comment on an issue raised in the Village's response.

Subsequent Event

Our audit fieldwork was completed prior to the COVID-19 pandemic (pandemic). The Village's 2020 projections and our audit work do not factor in the pandemic's financial effects.

Background

The Village of Dering Harbor (Village) is located in the Town of Shelter Island in Suffolk County. The Village is governed by an elected Board of Trustees (Board) composed of a Mayor, Deputy Mayor and three Trustees.

The Board is responsible for oversight of the Village including general management and control of finances and safeguarding assets. The Board appointed a Clerk-Treasurer, who is responsible for receiving, disbursing and maintaining custody of money, preparing financial reports and maintaining accounting records.

Quick Facts

Taxable Parcels	70
2018-19 Actual Expenditures	\$298,210
2019-20 Appropriations*	\$266,350

*Funded primarily by real property taxes.

Audit Period

June 1, 2017 – August 31, 2018. We extended our audit period back to June 1, 2013 to review financial records and budgets and forward to review the 2019-20 budget.

Board Oversight

A board is responsible for the oversight and management of village financial operations. The board achieves this in part by properly budgeting appropriations and revenues, reviewing tax levies and monitoring village cash assets, property tax revenue collections and bank records.

How Should the Board Present, Adopt and Monitor Budgets?

An annual budget is the document that details the financial plan of a village for the year. Properly prepared budgets include realistic estimates of what the village will spend and what it will receive in revenue, how much fund balance (difference between revenues and expenditures accumulated over time) will be available for use at year-end and the expected tax levy. It is the board's responsibility to adopt realistic and structurally balanced budgets for all funds in accordance with New York State Village Law (Village Law).¹ A reasonable portion of unrestricted fund balance may be retained as a financial cushion for unforeseen circumstances.

In addition, Village Law prescribes the tentative budget's format and content and requires the budget officer to include certain information.² Required information includes the budget officer's recommendation of appropriations and estimated revenues for the ensuing year for all funds, a schedule of actual revenues and expenditures for the last completed fiscal year, a schedule of current year appropriations and estimated revenues reflecting any modifications, a schedule of fund balance estimated to be available at the close of the current fiscal year and a computation of the amount of the real property tax levy.

Village Law also prescribes the calendar in which the budget officer is to present the proposed budget to the board for its consideration and approval.³ This prescribed calendar allots sufficient time for the board and residents to request backup documentation for estimated appropriation and revenue figures and any revisions to be made, as deemed necessary, before approving the proposed budget on or before May 1st each year.

The real property tax levy is a key factor in the village budget's development because it is generally the primary source of revenue to fund budgeted appropriations. New York State General Municipal Law (GML)⁴ establishes a tax levy limit on local governments including villages which generally precludes local governments from adopting a budget that requires a tax levy that exceeds the prior year tax levy by more than 2 percent, or the rate of inflation, whichever is less,⁵ unless the Board first enacts, by a vote of 60 percent of the total voting

1 New York State Village Law (Village Law), Section 5-506

2 Village Law Section 5-506

3 Village Law Section 5-508

4 New York State General Municipal Law Section 3-C

5 The rate of inflation is determined by several growth factors as set forth by the Office of the State Comptroller.

power, a local law to override such limit for the upcoming fiscal year. In the event that the actual tax levy for a given fiscal year exceeds the established tax levy limit, the village must place the excess amount of the levy in a reserve and use such funds and any interest earned on the funds to offset the tax levy for the ensuing fiscal year which reduces revenues to fund current year appropriations. Such action can result in budget shortfalls that threaten the delivery of essential services to residents.

Once the budgets have been adopted there must be a systematic accounting process in place to determine that revenues are realized and money is available for expenditures for each purpose enumerated in the budget. Without properly accounting for revenues and expenditures, officials cannot be reasonably assured that the budget that they approved is, in fact, being complied with. It is the board's responsibility to see that services are delivered within the limits provided in the budget. A budget report is useful for monitoring the adopted budget. A budget report shows the original budget, any authorized amendments and actual transactions to date (i.e., revenues and expenditures). As required by Village Law,⁶ no expenditure can be made unless an appropriation is authorized and available. Budget reports that are prepared and reviewed at the end of each month throughout the fiscal year ensure the timely detection of projected budget shortfalls and any further anomalies. This allows actions to be taken early to address any shortfalls when only relatively small adjustments such as budget transfers may be required.

In addition to the operating fund, a village has the ability to establish and maintain capital project funds to account for financial resources used for the acquisition, construction or improvement of capital assets. Unlike other governmental funds that require an annual budget, each capital project needs a budget, and the budget should be incorporated in the accounting records. In addition, a multiyear capital plan can provide accurate, reasonable estimates of each project's budgetary impact, including debt service costs, impact on fund balance and future operating expenditures.

The Board Did Not Present and Adopt Budgets as Prescribed

The tentative Board-adopted operating budgets from 2013-14 through 2017-18 consisted of a schedule comparing the current year budget, current year expenditures recorded as of the date of budget development and the next year's proposed budget. A calculation of the property tax levy for the ensuing year was included, as required.

However, none of the operating budgets we reviewed contained a schedule of actual revenues and expenditures for the last completed fiscal year. While the

⁶ Village Law 5-520 – General Budgetary Controls

budgets included the appropriations for the next year's budget, the budgets lacked estimated revenues for the next year. The budgets included only revenue to be raised from real property taxes and provided no estimates for other anticipated revenue, such as fees or State aid. For example, the 2015-16 budget contained actual year-to-date revenue collected from permit fees and State aid, but did not include estimated amounts from these sources in the budget. The budgets also did not include an estimate of fund balance at year-end.

In addition, the Mayor did not always present proposed budgets to the Board and residents in a timely manner to allow for revisions, as deemed necessary. Village officials were unable to provide documentation indicating that tentative budgets were presented to the Board by the date prescribed in the law.⁷ Rather, the records of Board meetings show that the tentative budgets were presented to the Board, for adoption, on the same date that they were presented to the residents for a public hearing.

Further, public hearing dates were routinely held after the date prescribed by law.⁸ For example, the 2015-16 budget was presented to the Board and the residents on April 18, 2015; 19 days after it should have been presented to the Board, and three days after it should have been presented for public hearing. For the 2019-20 fiscal year, the tentative budget was presented to the Board in March 2019. The Board held a public hearing by the date prescribed by law, on April 13, 2019 and adopted the budget the same date.

The Board Underestimated General Fund Revenues and Appropriations

The Board consistently adopted general fund budgets with estimated revenues and appropriations that were less than actual revenues and expenditures for the 2013-14 through 2017-18 fiscal years. The Board underestimated revenues by a total of \$151,908 (9.5 percent) and underestimated appropriations by a total of \$210,126 (13.1 percent) for the five-year period.

⁷ On or before March 31

⁸ On or before April 15

Figure 1: General Fund Budget vs. Actual Revenues and Expenditures

	2013-14	2014-15	2015-16	2016-17	2017-18	Totals
Estimated Revenues	\$322,505	\$318,680	\$324,800	\$316,372	\$324,363	\$1,606,720
Revenues	\$338,945	\$328,338	\$344,098	\$387,958	\$359,289	\$1,758,628
Underestimated Revenues	(\$16,440)	(\$9,658)	(\$19,298)	(\$71,586)	(\$34,926)	(\$151,908)
Percentage Underestimated	(5.1%)	(3.0%)	(5.9%)	(22.6%)	(10.8%)	(9.5%)
Appropriations	\$322,505	\$318,680	\$324,800	\$316,372	\$324,363	\$1,606,720
Expenditures	\$339,506	\$352,915	\$359,433	\$408,939	\$356,054	\$1,816,847
Underestimated Appropriations	(\$17,001)	(\$34,235)	(\$34,633)	(\$92,567)	(\$31,691)	(\$210,127)
Percentage Underestimated	(5.3%)	(10.7%)	(10.7%)	(29.3%)	(9.8%)	(13.1%)

The variances between budgeted amounts and actual revenues and the consistent overexpenditure of budgeted appropriations each year shows a lack of realistic budgeting and a lack of monitoring operations to make sure expenditures stay within the amounts available. The Board did not monitor the budget by requesting and reviewing monthly budget-to-actual reports.

The revenue variances were caused primarily by the Board repeatedly adopting budgets that only included estimated revenue from real property taxes. However, the Village consistently received other forms of revenue in all five years. For example, the Village received State aid in each of the five years for a combined total of \$74,844. According to documentation in the Board minutes, the Mayor stated that budgets only included real property tax revenue because other forms of revenue could not be estimated.

The variances between appropriations and expenditures were generally due to consistently underestimating expenditures for legal fees, Water Department operations and employee benefits. For example, for the five-year period, legal fees were overspent by a total of \$71,017 (43 percent), Water Department appropriations were overspent by \$64,794 (26 percent) and employee benefits were overspent by \$28,994 (9 percent). The Board regularly adopted appropriations by using the previous year's budget and making slight adjustments without reviewing the actual results of operations.

We reviewed the Village's 2018-19 and 2019-20 general fund adopted budgets and found that estimated revenues continued to include only estimated real property taxes and appropriations remained unreasonable. The consistent practice of underestimating appropriations has led to insufficient revenues to finance expenditures on an ongoing basis.

General Fund Balance Has Declined

The general fund had a reported fund balance of \$61,710 as of June 1, 2013 that decreased by \$58,219 (more than 94 percent) over a five-year period to a fund balance of \$3,491 as of May 31, 2018.

Figure 2: General Fund Balance at Year-End

	2013-14	2014-15	2015-16	2016-17	2017-18
Total Beginning Fund Balance	\$61,710	\$61,149	\$36,572	\$21,237	\$256
Add: Operating Deficit/Surplus	(\$561)	(\$24,577)	(\$15,335)	(\$20,981)	\$3,235
Total Year-End Fund Balance	\$61,149	\$36,572	\$21,237	\$256	\$3,491

The Board's consistent practice of underestimating appropriations resulted in the general fund realizing operating deficits in four out of the five years and a significant decline in the general fund balance from \$61,710 to \$3,491. The Board will need to budget more conservatively for several years to build a fund balance large enough to provide a cushion against unexpected circumstances.

The Board Did Not Actively Monitor the Budget

Village officials stated that claims were audited by the Board on a monthly basis and they felt that this was an effective way of monitoring financial operations. However, the Board did not request and the Clerk-Treasurer did not prepare budgetary status reports.

During our review of the Village's budget and accounting records, we found errors in recording revenues and paying expenditures that the Board could have identified by reviewing financial reports and the status of a carefully prepared budget.

For example, the Village received foreign fire insurance funds in 2017-18 and 2018-19, totaling \$16,502, that should have been disbursed to the appropriate firefighting organization. The Clerk-Treasurer recorded the funds as State aid in error, rather than disbursing the funds as required.⁹ A carefully prepared budget would have provided the Clerk-Treasurer with estimates of the State aid expected. Had officials included these estimates in the budget and monitored the budget, they could have realized the money received was more than expected and questioned the discrepancy. Instead, the error went undetected for two years.

⁹ Foreign fire insurance is generated from a tax that is imposed on the premiums of fire insurance policies written by certain out-of-state insurers against loss or damage by fire on property located in the State. The insurer will collect and remit the tax money generally to NYS Department of Financial Services which, in turn, distributes the proceeds to the proper recipients. The recipients of foreign fire insurance money include fire departments, fire companies, benevolent associations and the Firemen's Association of the State of New York. In 2017-18 foreign fire insurance receipts totaled \$7,875 and 2018-19 foreign fire insurance receipts totaled \$8,627.

In addition, from 2013-14 through 2015-16 the Village contracted with and paid the local fire district for fire protection services. The Board budgeted for these same services in 2016-17 and 2017-18 totaling \$70,000.¹⁰ However, the Village did not disburse the contract fees to the fire district during these years. Reviewing budget-to-actual reports would have helped to identify these discrepancies timely.

Village officials were unable to provide an explanation as why these fees were budgeted but not paid during these two years nor were they able to furnish a written contract for fire protection services. Officials told us that they were in negotiations with the fire district for a new contract.

Without detailed budget-to-actual reports being prepared and submitted to the Board monthly, the Board's ability to effectively monitor revenues and expenditures against budgeted amounts and take necessary action, when warranted, is impaired. This led to errors that went undetected and uncorrected and also further hampered the Village's financial condition.

The Board Adopted a Tax Levy That Exceeded the Tax Cap Limit

The Village's property tax levy for 2018-19 was \$396,613, which was a \$72,250 (22 percent) increase from 2017-18. The 2018-19 levy exceeded the Village's calculated tax levy limit of \$331,470 by \$65,143. The Board did not properly authorize a local law to exceed the calculated tax levy limit, as required by GML.¹¹ Therefore, the Board was required to establish a tax cap reserve funded by the excess amount of the levy, in addition to interest earned on such funds, to offset the tax levy for the 2019-20 fiscal year. The 2019-20 tax levy was within allowable tax cap limits.

The Board's failure to comply with GML further reduced the available revenues to fund current expenditures because money had to be placed in a tax cap reserve to help offset the next year's tax levy.

The Board Did Not Develop a Formal Multiyear Capital Plan

Village officials expended \$230,188 from 2013-14 through 2017-18 for various capital projects without developing or adopting a comprehensive written multiyear capital plan. For example, Village officials actively discussed an ongoing water system project in the Board minutes, with expenditures funded by short-term financing, totaling \$76,560. While officials had established a capital projects fund, they had not developed a budget for the project or developed a multiyear capital plan. A well-designed multiyear plan that identifies long-term capital needs, and

¹⁰ The Village budgeted payments of \$35,000 in each year.

¹¹ GML Section 3-C

includes specific estimates of each project’s budgetary impact and debt service costs, can assist the Board in effectively managing the Village’s finances.

Our fieldwork was completed in November 2019, prior to the start of the pandemic. Given the negative financial effect of the pandemic, it is even more important for Village officials to develop and monitor appropriate annual budgets and begin multiyear financial and capital planning.

How Should the Board Oversee the Billing and Collection of Real Property Taxes?

The Village’s primary revenue source is real property taxes. Therefore, it is important that the Board ensures that properly designed accounting records and reports are in place to ensure that total billings¹² and taxpayer accounts are accurately accounted for, collections are recorded timely and delinquent accounts are readily identified and enforced. Sufficiently segregating duties is a key element of internal controls to ensure these collections are accurately recorded, safeguarded and deposited intact and timely. When it is not feasible to segregate duties, additional oversight is necessary as a mitigating control. Oversight activities can include reviewing reports of billings and cash receipts, bank reconciliations and bank statements.

The clerk-treasurer is responsible for preparing and recording real property tax bills for village properties as well as collecting, recording and depositing the payments of these bills. The clerk-treasurer must maintain accurate and complete records and reports and deposit all real property tax collections in a timely manner. Village Law¹³ requires the clerk-treasurer to deposit all real property tax money collected within 10 days of receipt. Tax receipts collected should be deposited intact (in the same form, cash or check, as when received). The clerk-treasurer is also responsible for collecting penalties for all tax payments received after July 1st and December 31st, when applicable.¹⁴

Real property tax bills are required to contain pertinent information regarding the property being taxed by the Village. New York State Real Property Tax Law¹⁵ requires specific information to be stated on property tax bills regarding the property being taxed such as the taxes to be paid, how the taxes are calculated, payment procedures and interest and penalties that will accrue if

12 Real property tax bills are determined by multiplying the assessments values listed on the tax roll for each parcel by calculated tax rate that is based on the Village’s approved annual budget for real property taxes. Assessment values for each parcel are performed by the Town of Shelter Island.

13 Village Law section 4-408

14 When real property tax payments are made in two installments, interest for each installment should be calculated separately in accordance with New York State Real Property Tax Law Section 1432.

15 Real Property Tax Law Section 922

payment procedures are not followed. At the direction of the board, it is the clerk-treasurer's responsibility to ensure that this information is stated on the bills distributed to village taxpayers. This information ensures that taxpayers are adequately informed of their obligation to the village and the ramifications if those obligations are not met in the prescribed timeframe. Further, it allows taxpayers to verify they are being charged appropriately, for the correct property and at the accurate assessment and tax rate.

The Board Did Not Provide Sufficient Oversight of the Billing and Collection of Real Property Taxes

The Board did not provide sufficient oversight of the Clerk-Treasurer. The Board did not receive or review real property tax bills before they were issued, reports of billings to ensure taxes were calculated correctly or review any other financial reports such as bank reconciliations to ensure property tax receipts were actually collected and recorded accurately.

We reviewed property tax bills issued by the Clerk-Treasurer and the real property tax records for all collections received during our audit period. We found that real property tax bills did not contain all pertinent information, as required by law. While the bills contained the dollar amount of taxes to be paid, an explanation for how the taxes are calculated, payment procedures such as the location of where payments should be made and the dates in which payments were due, the bills did not contain interest and penalty information that outlined the ramifications to the taxpayer if the bill is not paid on time. Due to this omission, for the 39 real property tax payments totaling \$112,351 that were made after the required payment dates, the Board did not pursue interest and penalties, as required by statute. Therefore, the Village did not receive \$6,495 in interest and penalties to which it was entitled.

In addition, the Clerk-Treasurer did not maintain or issue receipts for real property tax payments. As a result, we were unable to determine if payments were deposited intact because there was no documentation to identify the form in which payments were received. However, the Clerk-Treasurer did record the amount and the date on which payments were received in the accounting software. Despite minor discrepancies that were discussed with Village officials, payments were recorded accurately and deposited timely.

Although we did not identify any misappropriations of collections, by not establishing adequate compensating controls, there is an increased risk that collections could be lost, stolen or misappropriated without detection.

What Do We Recommend?

The Board should:

1. Ensure tentative and adopted budgets are prepared in compliance with the statutory requirements.
2. Develop and adopt budgets that include realistic estimates of revenues and appropriations.
3. Develop a fund balance policy to govern the level to be maintained in each of the Village's funds to provide a cushion for unexpected circumstances.
4. Develop a multiyear capital plan.
5. Ensure that local laws are in place to override the tax levy limit, when necessary.
6. Regularly monitor and review Village financial records such as budgetary status reports to ensure that all revenues and expenditures are accurate.
7. Review real property tax bills before they are issued and reports of billings to ensure taxes are calculated correctly and any other financial reports such as bank reconciliations to ensure property tax receipts are collected and recorded accurately.
8. Revise real property tax statements to be consistent with statutory requirements, including the amount of interest and penalties for late payments.

The Clerk-Treasurer should:

9. Issue and maintain receipts for real property tax payments.
10. Provide monthly financial information including budget-to-actual comparisons to the Board.

Appendix A: Response From Village Officials

Due to pandemic-related issues, the response letter transmitted from Village officials did not have the best clarity. We were not able to secure a better copy of the letter.



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VILLAGE OF DERING HARBOR

Audit Report Title: *Board Oversight, Report of Examination 2020M-29*

AUDIT RESPONSE AND CORRECTIVE ACTION PLAN (CAP)

Introduction:

The current Board of the Village of Dering Harbor has served since June 2018. Some of the current Trustees were elected the year before and served under a different Mayor who held that position for just one year. Prior to that, the Village was governed by the same Mayor for 26 years and every Trustee on the Board began their service as an appointee of the sitting Mayor.

The current Board recognized that the existing system of governance, communication and transparency was deficient. It was clear that Village management in general, but especially its financial management, were also deficient. The conditions that the new Board encountered were disturbing. The long-tenured Mayor and Clerk/Treasurer resigned and would not communicate with the new Board. This severely undermined any prospect for a smooth transition, which imposed avoidable burdens on the incoming Board, and unnecessary risks to the Village and its residents. The administrative mess that remained was a cause for concern and required immediate attention. As a result, one of the Board's first actions was to establish an audit committee and direct it to contact the Office of the State Comptroller and request an audit. It was discovered that the Village of Dering Harbor had not had a state audit for 23 years. A parallel action as we transitioned, was to contract with a CPA firm to improve our financial operations, reporting, controls and governance. Our CPA consultant has more than twenty years of municipal finance experience in New York and continues to assist us in this area.

We are proud to report that our work has had a major impact on the financial health of our community. The New York State Fiscal Stress Monitoring System provides a concrete assessment of our improvements. The system analyzes key financial indicators and assigns communities to three categories of stress: Significant Fiscal Stress (65-100), Moderate Fiscal Stress (55-64.9) and Susceptible to Fiscal Stress (45-54.9). Communities rated (0-44.9) are listed as "no designation" and are managing their finances prudently. The Village of Dering Harbor was rated an alarming 54.2 in Fiscal Year 2017 but improved to 12.9 in Fiscal Year 2019 under the current Board's tenure.

We are grateful for the long hours of work, prompt communication, constructive criticism and wise counsel that we have received from OSC staff. We understand that your Report of Examination is divided into two parts: a report on Board Oversight, which is the subject of this response, and an additional report on Payroll that is yet to be issued. We can report that of the 10 recommendations contained in your Board Oversight report, 7 of them have already been implemented.

With the exception of comments regarding budget preparation (below), we accept and agree with the findings and recommendations contained in your report on Board Oversight. Our corrective actions taken or proposed include the following:



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Audit Recommendation:

1. Ensure tentative and adopted budgets are prepared in compliance with the statutory requirements.

The report states that “public hearing dates (for budget presentation) were routinely held after the date prescribed by law.” And further, that “The Board continued this practice for the 2019-20 fiscal year as tentative budgets were presented to the Board for adoption on the same date that they were presented to the residents for a public hearing.” We cannot speak to the practices of the past administration, but accept your description of past events. We also agree that the public hearing on the budget and Board approval of the budget occurred on the same date for the 2019-20 fiscal year. This occurred for the 2020-21 fiscal year as well. However, we do not agree with the comment that “The Board continued this practice for the 2019-20 fiscal year” if the that reference is meant to include “public hearing dates routinely being held after the date prescribed by law.”

See
Note 1
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There are several relevant dates for the development and presentation of the budget prescribed by Village Law, Sections 5-504 and 5-508.

- By March 20th – The Budget Officer prepares the tentative budget and presents it to each member of the Board of Trustees, reproduces copies for the public, and files the tentative budget with the Village Clerk.
- By March 31st – The Village Clerk presents the tentative budget to the Board of Trustees and the Board reviews and modifies the tentative budget
- By April 15th – A public hearing shall be held on the budget and notice of public hearing on the tentative budget shall be posted at least 5 days prior to the date of the public hearing.
- A final revision of the tentative budget shall be made after the public hearing but prior to adoption (no date, timeframe or public comment period specified).
- By May 1st – Adoption of the budget.

For fiscal year 2020 and 2021, each of the prescribed dates has been observed. The budget in both fiscal years was presented to the Board and made available to the public at the March Board meeting. It was duly noticed in the official paper of the Village and presented again for a public hearing in April. It was adopted by the Board following the public hearing to satisfy the May 1st deadline for adoption. The next scheduled Board meeting, which was for the second Saturday in May, would not allow for timely adoption of the budget. While this process complied with the provisions of the law and description of adoption following the public meeting, it does not provide the public with a gestation period or public comment period following the public meeting. Public comment periods are common, but by our reading of the code, no public comment period is specified or required by Village Law 5-504 and 5-508. Perhaps this is something the OSC should reconsider.

Implementation Plan:

Although we believe that the Village has complied with the statutory requirements for budget processes and required presentation dates for the past two fiscal years, we accept Audit Recommendation 1. In order to accomplish this, and in order to allow the public a longer comment period, the BOT will schedule a Special Meeting following the required public hearing for the purpose of adopting the budget. We will continue the practice of posting the budget on the Village website in advance of the dates specified by Village Law, which will provide additional weeks for resident feedback.



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Audit Recommendation:

2. Develop and adopt budgets that include realistic estimates of revenues and appropriations.

We agree that the past practice of not forecasting or including non-tax revenue items contributes to the consistent underestimation of revenues and commit to correcting this practice. The past practice of excluding forecasts for non-tax revenues was rationalized as being conservative but was unrealistic nonetheless.

We agree that past estimates of appropriations were also unrealistic. As your audit results demonstrate, under-appropriations were particularly acute for legal fees, Water Department operations, and employee benefits. Excessive expenditures for these categories were recurring issues cited in your report. Appropriations for future years did not realistically consider or reflect prior expenditures or known current exigencies.

Implementation Plan:

The current Board assumed oversight of the Village with an alarming lack of information as well as limited access to prior years' finances. The audit demonstrates the fragile nature of the Village's past financial situation.

Going forward, the Board will use five-year averages of revenues received, where those revenue items can be considered to be recurring. The recently adopted FY 2021 budget includes amounts for revenues beyond real estate taxes. Prior experience and current conditions guided estimates for income from sources including bank interest, permits and fees, and mortgage tax payments.

Two of the primary sources of appropriation underestimates, water operations and employee benefits, have been eliminated. Water operations are now managed by the Suffolk County Water Authority and funded by resident users through quarterly water rents based on individual metered water consumption. Employee benefits have been dramatically decreased due to a transition to a contractual model for Village services. The Village now has just one part-time employee and is no longer vulnerable to meaningful unanticipated costs for operations or benefits.

Legal fees remain a challenge as the Village has been subject to several years of ongoing legal actions by one resident. This, along with the Board's robust legislative agenda to update and correct various local laws, has put a burden on our budget. We also have increased expenses due to our decision to provide an updated, compilation of our laws. The Village, prior to now, had never codified the local laws. There are inconsistencies and organizational issues, aside from the obvious lack of transparency due to lack of resident accessibility to a comprehensive set of laws. We have a multi-year contract with General Code to analyze, update and codify Village laws. We anticipate that we will have a completed comprehensive code, organized and indexed, by early Fall 2020. We will have hard copies of the Code and a searchable online edition. In addition, we have an ongoing contract with General Code to insure that the Code is updated as new laws are enacted.

Budgeting for unanticipated lawsuits is difficult, but the Board now has more precise forecasts for other expenses. The Board has corrected a deficiency in the budgeting process by segregating and specifically budgeting for legislation and routine legal services, litigation, and codification. Legal expenses will be reduced and are currently monitored monthly by line item.



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Audit Recommendation:

3. Develop a fund balance policy to govern the level to be maintained in each of the Village's funds to provide a cushion for unexpected circumstances.

As noted in the audit report, the Village of Dering Harbor had a precipitous decrease in the General Fund Balance from 2013 through 2018. Operating deficits occurred in four out of the five years, and the general fund balance went from \$61,710 (2013) to \$3,491 (2018). It is worth noting that these operating deficiencies appear not to have been part of the public discussion prior to 2018.

Implementation Plan:

One of the first initiatives undertaken by the current BOT was to carefully scrutinize Village operations, analyze expenditures, identify potential areas for cost savings, and implement efficiencies to reduce expenses. It was clear to this Board that the Village could not continue to operate effectively without a comfortable level of reserves for repairs or contingencies. The Board has established three reserve funds: Repairs Reserve, Tax and Contingency Reserve, and Water District Capital Reserve. Together the funds in the reserve accounts are in excess of \$110,000 or 44% of our FY 2021 budget.

The Board will research and adopt a formal policy governing reserves and fund balances by July 2020.

Audit Recommendation:

4. Develop a multiyear capital plan.

We acknowledge and accept the necessity to develop and maintain a multiyear capital plan and budget. From the outset, this Board was forced to concentrate on the water distribution system due to a catastrophic leak, and near failure of the water tank. A decision was made, after multiple public meetings, to contract with the SCWA to operate and maintain the Village water system and to invest \$1.14 million into infrastructure improvements. This crisis management along with efforts to correct the dismal fiscal condition of the Village has been the focus of the Board in the past two years. As previously noted, the fiscal risk in the Village has been mitigated, and our financial standing and operational capabilities have been dramatically improved. The next initiative is the development of a capital plan and in fact, the initial steps have already been taken.

Implementation Plan:

We have begun discussions on the process for development and implementation of a plan. The Village has limited capital assets, and it is anticipated that the majority of capital expenditures will be targeted to Village Hall and the road infrastructure. We are mindful that this plan must be comprehensive and include realistic cost estimates, and the process must include input from the stakeholder residents. Our plan will include the following:

- Create an asset inventory.
- Review legal, health and safety requirements.
- Assess opportunities to leverage external funding, expertise, and resource-sharing.
- Estimate capital costs and operating expenses.
- Prioritize capital improvements.
- Identify funds and establish a schedule for a multiyear plan.
- Formally adopt a capital plan and incorporate it into the annual operating budget.
- Monitor expenditures and activities monthly as a component of fiscal monitoring.



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- Review the planning process annually with the intention of improving/modifying the program.
- Develop a capital budget each fiscal year.

We expect to complete a draft plan by November. A final plan will be presented for Board adoption prior to budget development in the first quarter of 2021 for the FY 2022 budget.

Audit Recommendation:

- 5. Ensure that local laws are in place to override the tax levy limit, when necessary.**

We acknowledge and agree that legislative action is necessary to override the state mandated tax levy limit of the lesser of 2% or inflation. The Village failed to pass a local law to override the tax levy limit in 2018 for the FY 2019 budget. For the past two fiscal years, 2020 and 2021, our consolidated budget has declined by 32% and 4% respectively. The operating budget has declined by 49% since 2019. These reductions obviated the need for legislation to override the tax cap. However, in an abundance of caution, a local law was adopted to override the tax cap for FY 2021.

Implementation Plan:

The current Board monitors revenues and expenditures on a monthly basis. The Board commits to ensuring, with the assistance of our financial consultant and legal counsel, compliance with GML.

Audit Recommendation:

- 6. Regularly monitor and review Village financial records such as budgetary status reports to ensure that all revenues and expenditures are accurate.**

The Board recognized this deficiency early in our tenure and contracted with a highly regarded financial consultant with extensive experience in municipal finance to advise and assist with the effort to improve reporting, practices and controls.

Implementation Plan:

Our bookkeeping software has been updated and inputs are made regularly by our Clerk/Treasurer. Our financial consultant monitors activity and provides assistance as needed. A monthly Treasurer's Report, including budget-to-actuals, bank reconciliations, property tax receipts, arrearages, and detailed invoices supporting all disbursements is reviewed and presented at each Board meeting.

Audit Recommendation:

- 7. Review real property tax bills before they are issued and reports of billings to ensure taxes are calculated correctly and any other financial reports such as bank reconciliations to ensure property tax receipts are collected and recorded accurately.**

Implementation Plan:

Property tax statements have been revised to ensure compliance with audit comments. They now include property tax assessments, the tax rate, an explanation of penalty and interest charges for late payments as well as a prompt for taxpayers to request a written receipt. The real property tax bills are being reviewed for accuracy by a Board member, the Clerk/Treasurer and our consultant.

The Treasurer's Report includes monthly bank reconciliations and account balances. We are developing a Tax Collection Report to be included with the Treasurer's Report. This report will be finalized in July 2020.



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Audit Recommendation:

8. Revise real property tax statements to be consistent with statutory requirements, including the amount of interest and penalties for late payments.

Implementation Plan:

See # 7 above.

The Clerk-Treasurer should:

Audit Recommendation:

9. Issue and maintain receipts for real property tax payments.

Implementation Plan:

See above- we have developed a process for this which is being implemented for current fiscal year tax collections, due July 1st (without penalty).

Audit Recommendation:

10. Provide monthly financial information including budget-to-actual comparisons to the Board.

Implementation Plan:

This is now standard practice and was initiated months ago. The Clerk/Treasurer presents a Treasurer's Report to the Board each month, covering all of the items noted in #6 above.

Signed:

Betsy Morgan
Mayor

5/18/2020

Date

Appendix B: Audit Methodology and Standards

Note 1

The report has been updated to clarify that the 2019-20 budget hearing was by the date prescribed by law.

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 Village officials to gain an understanding of the Village's financial condition, budget practices, tax payment and cash collection procedures, and monitoring of accounting and banking activities.
- We obtained budget worksheets and Board minutes/agendas to determine the dates that Village budgets were developed, adopted and presented. We also reviewed the structure and content of budget worksheets to determine if budgets were in accordance with applicable laws.
- We reviewed budget status reports for the general fund to identify expenditures that exceeded budgeted appropriations and revenues that exceeded budgeted revenues.
- We reviewed the audited financial statements. We compared financial statements to budget status reports and budget worksheets to determine if the Board was developing realistic budgets, and to identify if appropriations were underestimated for both the general fund and capital projects fund.
- We reviewed foreign fire tax payments received by the Clerk-Treasurer. We compared the amounts recorded in the general ledgers with the bank statements to identify if foreign fire tax payments were disbursed to the proper fire department or entity holding jurisdiction.
- We reviewed Board minutes to identify if the Board planned to override the tax levy limit, held public hearings and established local laws. We then compared this documentation with local law filings, tax levy inflation growth factors and tax levy limitations for the fiscal years, and determined if the Board exceeded the tax levy limit and complied with General Municipal Law.
- We analyzed the general and capital projects fund balance to identify trends.
- We reviewed all property tax payments received for the 2017-18 fiscal year to determine if all tax billings were paid, identify if there were any outstanding tax payments and if interest and penalties were applied to any late tax payments. We also reviewed bank statements and deposit compositions to ensure that all tax payments that were collected were deposited timely.
- We reviewed property tax statements to determine if they contained all proper items required by applicable laws.
- We performed bank reconciliations for operating account each month in the 2017-18 fiscal year.

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.

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-Treasurer's office.

Appendix D: 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

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/local-government

Local Government and School Accountability Help Line: (866) 321-8503

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