



Village of Brookville Board Oversight

Report of Examination

Period Covered:

June 1, 2013 — June 30, 2014

2015M-45



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
EXECUTIVE SUMMARY	2
INTRODUCTION	4
Background	4
Objective	4
Scope and Methodology	4
Comments of Local Officials and Corrective Action	4
BOARD OVERSIGHT	6
Fund Balance	6
Annual Audit	9
Claims Audit	10
Potential Conflict of Interest	12
Recommendations	14
APPENDIX A Response From Local Officials	16
APPENDIX B OSC Comments on the Village's Response	30
APPENDIX C Audit Methodology and Standards	33
APPENDIX D How to Obtain Additional Copies of the Report	35
APPENDIX E Local Regional Office Listing	36

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2015

Dear Village Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Village Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Village of Brookville, entitled Board Oversight. This audit was conducted 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.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Village of Brookville (Village) is located in the Town of Oyster Bay in Nassau County and has a population of approximately 3,400 residents. The Village is governed by a Board of Trustees, (Board) which comprises four elected Trustees and an elected Mayor. The Board is responsible for the general oversight of the Village's operations and the design and implementation of internal controls to safeguard Village assets from loss or misuse. General fund expenditures for the 2013-14 fiscal year were approximately \$3.9 million, which were funded primarily through real property taxes and building permits. General fund budgeted appropriations for the 2014-15 fiscal year were \$4.4 million.

Scope and Objective

The objective of our audit was to examine the Board's oversight of Village activities for the period June 1, 2013 through June 30, 2014. We extended our scope back to June 1, 2010 and forward to January 31, 2015 to analyze the Village's fund balance and to provide additional information for perspective and background. Our audit addressed the following related question:

- Did the Board provide adequate oversight of selected Village financial operations?

Audit Results

The Board needs to improve its oversight of Village operations. The Board has accumulated unexpended surplus funds totaling \$2.4 million without a long-term plan for its use, including maintaining a reasonable level of unexpended surplus funds, using it as funding source and, when appropriate, reducing the tax levy. Because the Board did not always adopt budgets with realistic estimates of revenues and expenditures, only 16 percent of the \$1.5 million of unexpended surplus funds appropriated over a four-year period to reduce the tax levy was actually used.

Also, the Board has not annually audited, or caused to be audited, the records maintained by the Clerk-Treasurer and the Justice, diminishing its ability to effectively monitor the Village's financial operations.

In addition, the Board did not audit claims prior to payment. We also found that the Clerk-Treasurer released payments for 65 percent of the claims that we reviewed, totaling \$7,915, from five to 36 days prior to the Board approving the abstracts for payment. These were not the type of payments authorized by Board resolution to be paid prior to Board audit. As a result, the Village paid a total of \$1,395 for services from four vendors without agreements detailing the basis for payment, paid a total

of \$950 for two claims without documentation that the goods or services had been received and, in one instance, inappropriately paid sales tax totaling \$216.

Finally, it appears the Village improperly entered into a contract for publishing services, totaling \$7,190 during the audit period, in which a Trustee had a prohibited interest. Although it would not have cured the prohibited interest, the Trustee also did not publicly disclose her interest in the contract as required by law and the Village's code of ethics.

Comments of Local Officials

The results of our audit and recommendations have been discussed with Village officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Village officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the Village's response letter.

Introduction

Background

The Village of Brookville (Village) is located in the Town of Oyster Bay in Nassau County and has a population of approximately 3,400 residents. The Village provides various services to its residents, including police and fire protection, road maintenance and snow removal. General fund expenditures for the 2013-14 fiscal year were approximately \$3.9 million, funded primarily through real property taxes and building permits. General fund budgeted appropriations for the 2014-15 fiscal year were \$4.4 million.

The Village is governed by a Board of Trustees (Board), which comprises four elected Trustees and an elected Mayor. The Board is responsible for the general oversight of the Village's operations and the design and implementation of internal controls to safeguard Village assets from loss or misuse. The Mayor is the Village's chief executive officer. The Mayor appoints all non-elective officers, subject to Board approval, including the Clerk-Treasurer, who serves as the Village's chief fiscal officer.

Objective

The objective of our audit was to examine the Board's oversight of Village activities. Our audit addressed the following related question:

- Did the Board provide adequate oversight of selected Village financial operations?

Scope and Methodology

We examined the Board's oversight of selected Village operations for the period June 1, 2013 through June 30, 2014. We extended our scope back to June 1, 2010 and forward to January 31, 2015 to analyze the Village's fund balance and to provide additional information for perspective and background.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Village officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Village officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the Village's response letter.

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 forwarded to our office within 90 days, pursuant to Section 35 of the 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 this plan available for public review in the Clerk-Treasurer's office.

Board Oversight

The Board is responsible for overseeing the Village's financial operations and ensuring that policies and procedures are in place to safeguard financial resources. This responsibility requires the Board to have a long-term plan for managing unexpended surplus fund balance and auditing the records of the Clerk-Treasurer and Justice Court annually. The Board is also responsible for auditing claims prior to payment and ensuring that expenditures are for valid Village charges.

The Board needs to improve its oversight of Village operations. The Board did not develop policies and procedures to govern the level of unexpended surplus funds to be maintained or the use of unexpended surplus funds as a funding source. Furthermore, the Board has not annually audited, or obtained an audit of, the records maintained by the Clerk-Treasurer and Justice. In addition, the Board did not audit claims prior to payment and improperly entered into a contract for publishing services in which a Trustee has a prohibited interest.

Had the Board adopted a policy to address maintaining a reasonable amount of fund balance or specified how it expects to use fund balance, it would have effectively used and reduced the excess fund balance. In addition, the lack of statutorily required Board audits of claims, the Clerk-Treasurer's records and the Justice's records and dockets limits the Board's ability to monitor and maintain accountability over financial operations and increases the risk of improper payments or accounting errors occurring without detection. Without adequate oversight, Village assets are not properly safeguarded and are at greater risk of loss resulting from fraud and abuse.

Fund Balance

Fund balance represents moneys accumulated from prior fiscal years. The Village may retain a reasonable portion of unexpended surplus funds¹ to use as a financial cushion in the event of unforeseen financial circumstances. In addition, the Village can set aside and reserve portions of fund balance to finance future costs for a variety

¹ The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted and unrestricted (comprising committed, assigned and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term "unexpended surplus funds" to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54) and is now classified as unrestricted, less any amounts appropriated for the ensuing year's budget (after Statement 54).

of specified objects or purposes. It is important for the Village to have a long-term financial plan in place to ensure that moneys accumulated in operating funds are used for appropriate and authorized purposes. Such a plan should include policies and procedures that provide guidance on maintaining a reasonable amount of fund balance and how that fund balance will be used.

The Board did not adopt policies or procedures to govern budgeting practices or the level of unexpended surplus funds to be maintained. From the 2010-11 to the 2013-14 fiscal years, unexpended surplus funds in the general fund were greater than \$2.3 million each year, more than 50 percent of each ensuing year's budget. In addition, the Board appropriated approximately \$1.5 million during the four-year period, an average of about \$378,000 each year, to reduce the tax levy. However, because adopted budgets in those years included unrealistic estimates of revenues and expenditures, the Village actually had operating surpluses in two of the four fiscal years reviewed. Therefore, only \$244,163, or 16 percent of the \$1.5 million of appropriated fund balance, was actually used.

Figure 1: General Fund - Operating Results and Unexpended Surplus Funds

	2010-11	2011-12	2012-13	2013-14
Appropriated Fund Balance	\$310,246	\$383,353	\$394,425	\$423,809
Actual Revenues	\$3,644,981	\$3,717,024	\$4,071,163	\$3,960,305
Actual Expenditures	\$3,531,562	\$3,944,494	\$3,963,037	\$3,976,998
Operating Surplus/(Deficit)	\$113,419	(\$227,470)	\$108,126	(\$16,693)
Unused Appropriated Fund Balance	\$310,246	\$155,883	\$394,425	\$407,116
Unexpended Surplus Funds	\$2,428,143	\$2,346,609	\$2,424,180	\$2,392,524
Ensuing Year's Budget	\$3,972,878	\$4,236,641	\$4,244,196	\$4,425,134
Unexpended Surplus as a % of Ensuing Year's Appropriations	61%	55%	57%	54%

The Village's unexpended surplus funds have accumulated from prior years' operating surpluses, including a significant windfall from the sale of land. In April 2007, the Village sold land for \$1 million and set aside the proceeds for future use to build a Village Hall. However, the Board did not formally set this money aside in a capital reserve fund. Village officials informed us that they subsequently abandoned the plan to build a Village Hall. The Board has not established a long-term financial plan for the use of the accumulated unexpended surplus funds.

In addition, from the 2010-11 to the 2013-14 fiscal years, the Board adopted budgets with planned operating deficits totaling \$1.5 million, an annual average of about \$378,000. However, the planned operating deficits did not always materialize because the adopted budgets included unrealistic estimates of revenues and expenditures. For fiscal years 2010-11 through 2013-14, Village officials overestimated expenditures by a total of \$785,613 and underestimated revenues a total of \$632,866. We reviewed the budget-to-actual reports for the general fund and found that the variances for revenues and expenditures were generally spread throughout the budgets.

Positive budget variances diminished the effect of the annual fund balance appropriation in the Village's adopted budgets and often led to an increase in unexpended surplus funds or a much smaller decrease than planned. Operating deficits during this period totaled only \$244,163, leaving more than \$1.2 million (or 84 percent) of the fund balance appropriated for the last four years unused. As a result, unexpended surplus funds were reduced by only \$35,619, or less than 2 percent, with an accumulated balance of about \$2.4 million at the end of the 2013-14 fiscal year.

Furthermore, this trend is likely to continue as a result of similar estimates in the 2014-15 budget. Village officials again planned for an operating deficit and appropriated \$439,109 in available fund balance to reduce the tax levy. As of January 31, 2015, eight months into the fiscal year, \$214,678 of the \$220,000 estimated for road work expenditures and \$101,833 of the \$120,000 estimated for legal services expenditures have not been used. Village officials could not provide evidence to support that any additional road work or legal services expenditures would be incurred before the end of the fiscal year. Also, revenues from building and alteration permits have already exceeded estimates by \$33,957. We project that the Village will receive between \$134,000 and \$172,000 in additional revenues from building and alteration permits before the end of the fiscal year. Therefore, Village operations for the 2014-15 fiscal year will likely result in a surplus of at least \$484,000 and the appropriated fund balance of \$439,109 not being used.

The Board has not established a long-term financial plan to help provide a framework for preparing budgets and help the Board effectively use and reduce unexpended surplus funds in a manner that benefits taxpayers. Had the Board adopted a policy to address maintaining a reasonable amount of fund balance or specified how it expects to use fund balance, it would have communicated its intentions for these unexpended surplus funds and its reason for continuing to raise additional revenues through taxes.

Annual Audit

New York State Village Law (Village Law) requires that the Board annually audit, or have a Village officer, employee, or independent auditor audit, the annual financial report or statement prepared by the Clerk-Treasurer and supporting records maintained by the Clerk-Treasurer. The Uniform Justice Court Act (UJCA) requires that the Board annually audit, or have an independent auditor audit, the records and dockets maintained by the Village Justice. An annual audit serves as an important internal control over cash receipts and disbursements by providing independent verification that transactions have been properly recorded and that cash has been properly accounted for. It can also provide Board members with an added measure of assurance that financial records and reports contain reliable information on which to base financial decisions.

The Board does not perform an annual audit of the Clerk-Treasurer's records and reports or the Justice's records, reports and dockets, as required by law. Each month, the Clerk-Treasurer prepares and submits to the Board statements of expenditures and revenues which include the Village's monthly and year-to-date expenditures and revenues along with budgeted amounts, and a balance sheet. Due to the lack of an independent annual audit of the Clerk-Treasurer's records, we reviewed Village records² to determine if the Clerk-Treasurer accurately reported expenditures, revenues and balance sheet items. We found no exceptions.

The Justice's records and dockets are annually reviewed by the Village's accountant. However, the Village's accountant is not an independent auditor, as required by the UJCA. Furthermore, the accountant's review is not an audit and explicitly states that the review is solely intended to assist the Board in connection with the Board's responsibility to annually audit the Justice's records. We found no evidence of the Board having conducted an audit of the Justice's records and dockets.

When we brought this to the attention of Village officials, they were not aware of the statutory requirement for an annual audit of the Clerk-Treasurer's records. Village officials believe that the review of the Justice's records by their accountant was sufficient to satisfy UJCA audit requirements.

The Board's failure to perform an annual audit of the Clerk-Treasurer's and Justice's records diminishes its ability to effectively monitor the Village's financial operations and could result in errors or irregularities occurring and remaining undetected or uncorrected.

² See Appendix C entitled Audit Methodology and Standards

Claims Audit

The audit and approval of claims is one of the most critical elements of a governing board's duties and responsibilities. Pursuant to Village Law, the Board is generally responsible for auditing claims against the Village to ensure, among other things, that disbursements are for valid expenditures and that goods or services have actually been received.³ The Board should establish a claims audit process to effectively audit claims prior to payment to ensure that only lawful Village charges are approved for payment. Claims must be audited and approved by the Board prior to authorizing the Treasurer to make payment.⁴

A proper claims audit process includes verification that all claims are properly itemized and contain sufficient documentation to determine the nature of the expenditure and that the amounts represent proper, duly authorized Village expenditures. A proper audit should also determine whether the officer or employee who gave rise to a claim approved it, usually by signing the claim attesting that goods and services were received and that the charges are correct.

The Board's approval should be expressed by a resolution approving the audited claims, and the Board's minutes should reflect the total number of claims audited and the dollar amount of claims by fund. The Clerk should then prepare an order, containing an abstract, directing the Treasurer to pay the specified claims. The abstract of the audited claims should include the name of the claimant, the claim numbers, the amounts audited and approved or disallowed and the appropriations to be charged. In a village where the clerk and treasurer are the same person, as is the case here, the abstract should be signed by the Mayor. In addition, if required by the Board, each claim packet should be signed or initialed and dated by individual Board members to indicate their audit and approval. The Clerk-Treasurer should issue checks only after receiving the order and dated abstract.

Villages are generally exempt from paying New York State sales tax on purchases. Therefore, claims should not contain sales tax. Furthermore, the Board should enter into a written agreement with service providers, indicating the contract period, the services to be provided, the timetable for completion and the basis for compensation, to assure that there is a clearly defined and mutually agreed-upon basis for the services to be provided and payment.

³ In lieu of the board auditing claims, villages are authorized to establish the office of village auditor to audit claims.

⁴ Village Law permits the Board to authorize payment of claims for public utility services, postage, freight and express charges prior to audit. The Board has, by resolution, authorized the Clerk-Treasurer to pay claims for these items in advance of Board audit and authorization. The claims for such pre-payments must be presented at the next regular Board meeting for audit.

The Board has not established an effective claims auditing process. It does not audit claims to verify their accuracy and legitimacy prior to authorizing payment. The Clerk-Treasurer assembles the claim packets⁵ and prepares the abstracts for Board members about three to four days before a Board meeting. The Mayor signs the abstracts, and the minutes of the Board's meetings indicate that the claims for the month were presented and approved. However, the Board does not approve individual claims. Board members told us that they selectively review claims for unusual payments. In addition, the total number and dollar amount of claims by fund to be paid was not documented in the Board's minutes.

Due to the lack of a proper claims audit process, we reviewed 20 claims totaling \$9,445.⁶ None of the claims we reviewed were audited by the Board. However, these were for legitimate Village purposes and were supported by an itemized invoice or receipt. The receipt of goods or services was not documented for two claims, totaling \$950, which included \$639 for dumpster service and \$311 for office supplies. In addition, five claims⁷ for services, totaling \$1,395, did not have written agreements detailing the basis for payment. These included two claims totaling \$800 paid to the Village Court Attorney, a \$325 claim for rental space used by the Village Court, a \$150 claim for court reporting services and a \$120 claim for monthly cleaning services. These claims lacked sufficient documentation to permit a proper audit. Without a written agreement, there is no assurance that the Village is paying the appropriate amount for agreed-upon services.

We also found that 13 of these claims (65 percent), totaling \$7,915, were paid by the Clerk-Treasurer from five to 36 days before the Board authorized the payments. These payments were not authorized by Board resolution to be paid prior to audit. For example, one payment of \$460 for the purchase of recognition plaques cleared the bank 33 days prior to receiving Board authorization. A payment of \$2,703 for installation of drywells cleared the bank eight days prior to Board approval. As part of the payment for installation of drywells, the Village inappropriately paid \$216 in sales tax.

Without a thorough and deliberate audit examination of claims and the supporting documentation, the Board does not have enough information to determine whether or not the lists of claims it approves on the abstracts are appropriate and legitimate. The Board's failure to

⁵ The Village's claim packets typically contain a voucher, invoice, confirmation that goods or services were received, check stub and other documentation as necessary.

⁶ We randomly selected a sample of 20 claims totaling \$9,445 out of 686 claims paid during the audit period totaling \$4.34 million.

⁷ These five claims were for payments to four vendors.

audit claims increases the risk of payments to vendors that are not for proper Village purposes, or that are for goods and services not of the quality or price agreed upon or for goods and services not actually received, and for inappropriate payments such as sales tax.

Potential Conflict of Interest

General Municipal Law (GML) limits the ability of municipal officers and employees to enter into contracts in which their personal financial interests and their public powers and duties conflict. Municipal officers and employees have an interest in a contract when they receive a direct or indirect monetary or material benefit as a result of a contract. Municipal officers and employees are also deemed to have an interest in the contracts of their spouse, minor children and dependents (except employment contracts with the municipality). Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in contracts with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with any of those powers or duties. For this purpose, a contract includes any claim, account, demand against or agreement with a municipality.

One exception is for a contract in which the total consideration payable, when added to the aggregate amount of all consideration payable under contracts in which the officer or employee had an interest during the fiscal year, does not exceed \$750 during the fiscal year. As a rule, interests in actual or proposed contracts on the part of a municipal officer or employee, or his or her spouse, must be publicly disclosed in writing to the municipal officer or employee's immediate supervisor and to the governing board.⁸ However, disclosure does not cure an otherwise prohibited interest in a contract.

GML does not prohibit the appointment of a spouse of a village trustee to a position of employment or a village office. However, participation by governing board members in appointment decisions, and other decisions relating solely or primarily to their spouse, could give rise to at least the appearance of favoritism or self-interest.

The Board, as part of a resolution appointing Commissioners, annually appoints the spouse of a Trustee as the publisher of the Village's newsletter. The spouse has executed and filed oaths of

⁸ The Village's code of ethics similarly requires every Village officer or employee to publicly disclose, on the official record, the nature and extent of any direct or indirect financial or other private interest that he/she has in any matter before the Board with which he/she has a vote, participates in the discussion or gives an official opinion.

office as publisher of the Village newsletter. While the Board has not entered into a written agreement with the spouse, as the publisher, there are several factors that suggest the spouse may not be a village officer or employee, but rather that the publisher has an independent contractor relationship with the Village. For example, we found no evidence of a Board resolution establishing the office or position of newsletter publisher. Further, the publisher is not paid a fixed salary but is paid by voucher on a per page basis, and this payment is reported to the Internal Revenue Service on a Form 1099 as non-employee compensation. Both of these factors can indicate an independent contractor relationship. During the audit period, the publisher submitted four invoices totaling \$7,190⁹ for publishing newsletters which ranged in size from 10 to 12 pages. We reviewed the four claims and found that the Village was charged per page at rates that varied from \$150 to \$189 per page.¹⁰ We also found that this individual prepares or compiles the newsletter at home, without the use of Village equipment, resources or space, further indicative of a contractor relationship.

If the spouse of the Trustee is engaged by the Village as a contractor, then the Trustee is deemed to have an interest in contracts between the spouse and the Village. This Trustee has powers and duties which make such an interest prohibited, in the absence of a statutory exception. Because the payments to the publisher during the fiscal year ending May 31, 2014 totaled \$7,190, the statutory exception for contracts less than \$750 does not apply, and there are no other exceptions that would apply to this situation. Accordingly, if the Trustee's spouse is engaged as a contractor, the Trustee would have a prohibited interest in the contract.

Alternatively, if the spouse is truly a Village officer or employee in the position of publisher, then the Trustee should have publicly disclosed this relationship (as required by the Village's code of ethics). In addition to such disclosure, the Trustee should not have participated in either discussions or votes on the appointment of the spouse or any other matters relating solely or primarily to the spouse. Village officials informed us that the Trustee did not make such a public disclosure. Our review of Board minutes found no evidence of any public disclosure or any recusal from discussions or abstention from voting on this matter.

⁹ The four invoices received by the Village were for \$1,650, \$1,800, \$1,850 and \$1,890.

¹⁰ Because there was no written documentation detailing the services to be provided by the publisher and the basis for compensation, we could not determine if the amounts of the claims were appropriate. When we brought this to the attention of Village officials, they could not explain the basis for the differences in amounts invoiced and paid.

The Board should take steps to clarify whether the publisher is a Village officer or employee or an independent contractor. Further, the Board should develop procedures to ensure that the Village does not enter into contracts in which officers have prohibited interest.

Village officers are accountable to the public, especially when the expenditure of taxpayer money is involved. When Village officers receive a direct or indirect monetary or material benefit as a result of a contract with the Village in which they serve, or when Board members participate in Board proceedings and votes relating to the appointment of their spouse, the public may question the appropriateness of the actions. Such actions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officers at taxpayer expense. In addition, without a written agreement with the publisher, there is diminished assurance that the Village is paying the appropriate amount for agreed-upon services.

Recommendations

The Board should:

1. Establish a long-term financial plan that addresses how the Village will use surplus moneys accumulated in operating funds.
2. Establish policies that address maintaining a reasonable amount of unexpended surplus fund balance.
3. Adopt budgets that contain reasonable estimates of expenditures and revenues and the amount of fund balance to be used to fund operations.
4. Use the unexpended surplus fund balance in the general fund in a manner that benefits Village taxpayers. Such uses could include, but are not limited to:
 - Establishing new reserve funds or increasing existing reserve funds.
 - Financing one-time expenditures.
 - Reducing property taxes.
5. Conduct an annual audit, or acquire an audit, of the Clerk-Treasurer's records and the Village Justice's records and dockets.

6. Establish a process for an appropriate audit of claims, including, but not limited to, ensuring that:
 - A deliberate and thorough audit of all claims is performed by the Board prior to payment.
 - Board minutes indicate the total number of claims audited and the dollar amount of claims by fund.
 - Evidence that goods or services were received and are for a proper and duly authorized Village purpose is included with each claim.
7. Ensure that valid written contracts or agreements are in place for all claims paid, where necessary, to establish the services to be provided, the time frames for delivery of services and the basis for compensation.
8. Recoup sales tax that was inappropriately paid to vendors for installing drywells.
9. Clarify whether the Village newsletter publisher is a Village officer, employee or independent contractor. If the publisher is a contractor, then the Village should cease contracting for publishing services with the Trustee's spouse.
10. Develop procedures to ensure that the Village does not enter into future contracts in which an officer or employee has a prohibited interest. In the case of the appointment of spouses of Board members to Village offices or positions of employment, ensure that Board members disclose their relationship to the appointee, recuse themselves from discussions on the appointment and abstain from voting on the appointment.
11. Ensure that officers and employees comply with the GML disclosure requirements and the Village's code of ethics.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.

The Village's response letter refers to attachments (Exhibit A, page 5 of the response) that support the response letter. Because the Village's response letter provides sufficient detail of its actions, we did not include the attachments in Appendix A.



DANIEL H. SEROTA, MAYOR

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May 26, 2015

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Dear Mr. McCracken,

The Board of trustees has reviewed a draft report for the Village of Brookville's Board Oversight prepared by the Office of the State Comptroller for the period June 1, 2013 through June 30, 2014, with an extended scope back to June 1, 2010 and forward to January 31, 2015.

The Village respectfully notes the findings and recommendations of the OSC Draft Report for the audit period and the following is intended to be a Combined Audit Response Letter and Corrective Action Plan approved by the Board of Trustees on May 26, 2015.

Brookville Combined Audit Response Letter and Corrective Action Plan

AUDIT RESPONSE LETTER

The Board is confident that it already complies with the stated "Audit Purpose" in so far as Brookville government officials manage government resources efficiently and effectively and consistently identify strategies to reduce costs and strengthen controls intended to safeguard local

Village of Brookville

1

government assets. In fact, every year, for the past nine years, the budget expenditures for the year have been reduced. Only once during that time, has the tax rate been marginally adjusted.

The Board is confident that it already complies with the stated “Audit Objective” in so far as Brookville government officials provide adequate oversight of all Village financial operations. However, in keeping with your recommendations, we are going to implement additional safeguards.

The Board is confident that to the extent practicable it can implement various recommendations contained in the audit report which will provide a paper trail of documentation to support the fact that Brookville already meets the substance of the stated audit purpose and the stated audit objective. In addition, the Board is already working on other policies and procedures so that we can carefully address each of the issues and recommendations made by the OSC audit.

It is the understanding of the Board that the nature of the audit is to be helpful with regard to local government officials. It is the experience of the Board that much of the report and the presentation of that report by the auditors has indeed been helpful as will be evidenced later in this Combined Audit Response Letter and Corrective Action Plan.

At the end of this response, under the heading of “Potential Conflict of Interest” the Board must address that part of the report consisting of two pages which (sadly), the Board must accept but believes the result will not be “helpful” as a practical matter.

Fund Balance

This section of the report appears to address two related but distinct areas of concern:

1. The fund balance
2. The budget process

1. The fund balance:

The report correctly sets forth the fact that there are unexpended surplus funds that are significant with regard to the size of the annual budget.

The report also correctly notes that \$1 million of the \$2.4 million unexpended surplus funds or 41.8% is the result of a windfall that the Village realized from the sale of land.

The Board recognizes its responsibilities to the taxpayers with regard to the unexpended surplus funds, however, it also recognizes its responsibilities to the taxpayers with regard to providing for excessive and unusual expenditures that the Village will be facing in the near future that go far beyond a financial cushion in the event of unforeseen financial circumstances.

The Village is facing significant expenses involving litigation on several fronts to protect and preserve the Village. The Village is also facing significant expenses with regard to the much needed road repairs and replacements. The Board is also facing significant potential expenses on behalf of the private Police Department in a lawsuit that is currently underway. The Board is concerned that these known and significant expenses that loom on the horizon could easily consume the entire unexpended surplus fund balance. It should also be noted that these significant expenditures that the Village will inevitably face accrued years ago and were and should have been provided for at the time although the Board appreciates the fact that some of these funds could have been set up in reserves for specified purposes.

See
Note 1
Page 30

The Board believes that it would be irresponsible and unfair to reduce the overall surplus by reducing current taxes when such a possibility is taken in the context of the known as opposed to the unforeseen unusual expenditures that the Village will face in the near future and the timeframe of when those obligations accrued.

2. The budget process:

The report recognizes that it was the intention of the Board to reduce the surplus by adopting budgets over the past four fiscal years which provided for operating deficits totaling \$1.5 million. Included in those budgets were provisions for the aforementioned unusual expenses that the Village will face in the future, however, from year-to-year those expenditures were delayed for reasons out of the control of the Village.

With reference to audit report figure 1: General Fund-Operating Results and Unexpended Surplus Funds it should be noted that over the course of the four years the net operating surplus/(deficit) there was a net deficit of \$22,618 with total actual expenditures for that same period of \$15,416,091. That is .15% negative variance, which would give an overall indication that the budgets were quite realistic and accurate except for the fact that certain expenditures that the Village is in fact facing were provided for did not materialize in the year for which it was budgeted and thus was deferred to the next year.

See
Note 2
Page 30

The report states a conclusion that "...the planned operating deficits did not always materialize because the adopted budgets included unrealistic estimates of revenues and expenditures." Figure 1: General Fund-Operating Results and Unexpended Surplus Funds" includes the unexpended surplus each year and reaches the conclusion that the budgets adopted included unrealistic estimates of revenues and expenditures when in fact over that four-year period a net total deficit of \$22,618 would make it appear that the budgeting process, exclusive of the unexpended surplus balance addressed in the previous section, was quite accurate.

See
Note 2
Page 30

The Board adopts budgets each year based on what it realistically believes it will be required to address. The Board considers that it is its responsibility to use that budget as a means to disclose to the Village residents the true state of affairs. In each of these years, irrespectively of what actually happened, provision was made for any unusual items by projecting budget deficits that would inform Village residents of what the Village was facing as well as inform those residents

that those unusual items were already provided for through the unexpended surplus and would in no way increase their current taxes.

The Board is proud of the fact that this Board and its predecessors have maintained tax rates at levels that would compare favorably with any Village and that no part of the unexpended surplus has accumulated at taxpayers' expense over the past four years.

See
Note 3
Page 30

Annual Audit

This section of the report deals with the audits of the annual financial report or statement prepared by the Clerk-Treasurer and supporting records maintained by the Clerk-Treasurer as well as the Justice's records and dockets finding that no such independent audits were performed.

The Board agrees that Village Law requires there be an independent audit of the reports and statements prepared by the Clerk-Treasurer and the Justice Court. In the past, this audit has been performed by our independent accountant, Barbara Valentino. The Board generally believed it

See
Note 4
Page 30

was in compliance, however, the Board appreciates the findings in the report indicating that these audits should be performed by an independent accounting firm.

The Board also appreciates that in the absence of these independent audits the OSC auditors performed other procedures set forth in the report and indicated that they found no exceptions.

Claims Audit

The Board appreciates the fact that much of the compliance with this section of the report can be accomplished through the use of and review of a "voucher" for each claim (a sample of which the OSC auditor kindly agreed to provide), which would be attached to the underlying documentation for each claim.

See
Note 5
Page 30

It is the understanding of the Board that this "voucher" will provide for a trail of review for each and every facet and phase of each claim including but not limited to reference to how the claim originated, approval as to how the claim was originated, noting that a valid written contract or agreement is in place, approval by the officer or employee who gave rise to the claim by signing the claim of attesting that goods and services were received; that the charges are correct; that no sales tax was included as part of the claim; that the claim is a lawful Village charge, and ultimately reflect that the claim together with the underlying documentation was audited by the Board and/or a claims auditor, independent of the purchasing process, appointed by the Board.

See
Note 6
Page 30

While the Board is confident that the manner in which claims have been handled to date has left little or no room for the risk of payments to vendors that are not for proper Village purposes, for goods and services not of the quality or price agreed upon, for goods and services not actually received, and inappropriate payments such as sales tax, it recognizes that such a "voucher" is a

cost-effective means of providing an audit trail and could serve as a sensible safeguard as well as providing for an efficient means for establishing an effective claims auditing process.

The Board understands that due to what the OSC auditors stated to be a lack of a proper claims audit process they reviewed 20 claims totaling \$9,445. They concluded, apparently based on a lack of documentation as set forth above, that none of the claims were audited, however all of these claims were for legitimate Village purposes and were supported by an itemized invoice or receipt.

See
Note 7
Page 31

The Board appreciates and accepts the general findings and direction contained in this section of the audit report, however, must address some of the underlying items set forth in the report that serve as the basis for those findings and directions as follows:

The receipt of goods or services was not documented for a claim of \$639 for dumpster service and \$311 for office supplies. While the documentation might not be there, the nature of these claims are such that it would have been readily apparent to those originating the claim that these goods or services were not received if in fact that was the case and they as a matter of course would have taken action to address that problem.

See
Note 8
Page 31

Five claims totaling \$1395 did not have written agreements detailing the basis for payments. These claims average \$279 each and represent regularly recurring items and standard charges the exact amount of which could only be known after the specific claims were actually incurred. It is hard to imagine how claims of this nature and amount could practically and cost-effectively be set forth in the prior written agreements.

See
Note 9
Page 31

13 claims were found to be paid by the Clerk- Treasurer from 5 to 36 days before the Board authorized the payments. The nature of these claims and the amount of these claims are such that they should be paid prior to Board approval as long as the Clerk-Treasurer knows that the claim was approved and the goods and services were provided because the Board always has recourse against the claimant.

See
Note 10
Page 31

Included in those claims is a payment of \$2703 for installation of dry wells. This claim was highlighted for the reason that it cleared the bank eight days prior to Board approval and that the Village inappropriately paid \$216 in sales tax. In fact the claim was not for the installation of dry wells but rather for the materials that the claimant required to install the dry wells at no cost. The claim is attached as Exhibit "A". It should be noted that the claim itself made no mention of sales tax. The only mention of sales tax was on the invoice to the contractor that the contractor paid. While the sales tax may have been included in the contractor's cost of materials it was not a specific charge of sales tax to the Village. The Village never pays sales tax and has procedures in place to review each invoice to be sure that sales tax is not paid although the documentation that this review has been performed might be absent. Under the circumstances that the actual installation was performed without charge and the sales tax was paid by the contractor and included as part of his materials which the Village agreed to pay it was determined that the claim should be paid as presented and when presented because the contractor should not have

See
Note 11
Page 31

See
Note 12
Page 31

been left out of pocket for the cost of the materials when he charged nothing for the installation.

Potential Conflict of Interest

It should be noted from the outset that if the identical Board had sourced the identical service from the identical individual as an employee rather than a contractor and issued a form W-2 for his compensation instead of a 1099 these two pages would never have appeared because no “potential conflict of interest” would exist. However if we hired the person as an employee rather than a contractor, to be in “compliance”, it would cost the Village significantly more money in taxes, equipment, software and maintenance and create significantly more work in the Village. While this matter is presented in the audit report as a potential conflict of interest, the Board does not believe there is any real conflict. The Board does not believe there is any real conflict of interest as all Board members are very acutely aware of this service provided to residents and have been approving all expenditures with respect to the newsletter not only as a line in the annual budget but also approved all individual bills that were part of budget line. The expenditure presented as a potential conflict relates to the publishing of a Village newsletter. The amount of the expenditure is \$7,190 or approximately \$2.00 per resident per year for 3 newsletters or \$.67 per resident per newsletter. That amount represents .166% of the \$4.34 million Village budget.

See
Note 13
Page 31

The real potential conflict is one presented by the audit report, as we see it, which in essence is telling us to give up the newsletter, (a long-standing and important part of our community that is greatly appreciated by the residents and would be sorely missed), lose a valued and dedicated trustee who works for absolutely nothing and has done so for many years or spend more in taxpayers’ money for the identical service by making the publisher an employee rather than a contractor.

See
Note 14
Page 32

The real problem is that the only way that our newsletter can be published on a cost-effective basis, if at all, is if the publisher is deeply involved in the business of the Village as a Village officer and/or board member who already attends all the meetings and is engaged in regular communications with the other Village officers. It would not be practical and probably not doable to pay someone to attend all meetings of all of the Boards and communicate on a regular basis with the trustees. The Zoning Board Members, the Planning Board Members and the Village officials to stay informed as to what is going on in the Village. Needless to say such an alternative would further expand the already significant commitment of our unpaid trustees, Board members, and Village officials by requiring them to keep someone who is not involved in the process informed.

The report indicates that the relationship of the trustee and the publisher should have been publicly disclosed as required by the Village’s code of ethics intimating that there was actually

See
Note 15
Page 32

some infraction with regard to the Village’s code of ethics. The fact is that at each Annual Organizational meeting, the publisher was appointed and sworn in at a public meeting in front of all attending trustees, board members and residents. The fact is that each and every trustee knew about the relationship at the time the expenditures were approved by the Board. Most importantly the related trustee and the publisher have been extremely active in the Village for decades and their relationship is common knowledge among the residents.

See
Note 16
Page 32

The report mentions the possibility of at least the appearance of favoritism or self-interest. The fact is that no one else can do the job; no one else will do the job except possibly at a cost many times what is currently being paid. Despite the fact that there is some modest compensation, this service is largely a selfless endeavor performed by the trustee and the publisher that would not exist without them.

See
Note 17
Page 32

The report states that the public may question the appropriateness of these actions when in fact the public for these purposes consists only of our Village residents who greatly appreciate the newsletter.

The report indicates that these actions could create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officers at taxpayer expense. This expenditure is significant in its benefits to the community and completely immaterial as an expense to the taxpayers. To say that there is or could be an actual conflict of interest or appearance of impropriety with regard to this matter one must ignore all of the relevant facts. To say that there could possibly be improper enrichment of officers at taxpayers’ expense is questionable particularly considering the fact that the officers serve without compensation and nobody is getting rich for the amount in question.

See
Note 18
Page 32

The report also indicates that without a written agreement with the publisher there is diminished assurance that the Village is paying the appropriate amount for agreed-upon services. With or without a contract the Board is acutely aware that the cost incurred for this extensive newsletter is well below market value.

See
Note 17
Page 32

CORRECTIVE ACTION PLAN

Audit Recommendation “1”

Establish a long-term financial plan that addresses how the Village will use surplus moneys accumulated in the operating funds.

Implementation Plan of Action(s): The Board will analyze the unusual and yet inevitable expenditures that the Village will face in the near future and where appropriate will establish reserves for those expenditures.

Implementation Date: This action will be taken by June 1, 2016.

Person Responsible for Implementation: Mayor will oversee the process with a committee consisting of member(s) of the Board of Trustees, the Village Clerk/Treasurer and the accountant.

Audit Recommendation “2”

Establish policies that address maintaining a reasonable amount of unexpended surplus fund balance.

Implementation Plan of Action(s): The Board will establish policies that address maintaining a reasonable amount of unexpended surplus fund balance to cover the unforeseen expenditures as well as any overages that may occur with regard to the reserves established for the known unusual and yet inevitable expenditures.

Implementation Date: This action will be taken by June 1, 2016.

Person Responsible for Implementation: Mayor will oversee the process with a committee consisting of member(s) of the Board of Trustees, the Village Clerk/Treasurer and the accountant.

Audit Recommendation “3”

Adopt budgets that contain reasonable estimates of expenditures and revenues and the amount of fund balance to be used to fund operations.

Implementation Plan of Action(s): The Board will continue to undertake a line by line analysis of the previous budgets, as well as the budget under consideration, so that budgets remain realistic.

Implementation Date: This action will be taken by June 1, 2016.

Person Responsible for Implementation: Mayor will oversee the process with a committee consisting of member(s) of the Board of Trustees, the Village Clerk/Treasurer and the accountant.

Audit Recommendation “4”

Use the unexpended surplus fund balance in the general fund in a manner that benefits Village taxpayers. Such usage could include, but are not limited to:

- Establishing new reserve funds or increasing existing reserve funds*
- Financing one-time expenditures*
- Reducing property taxes.*

Implementation Plan of Action(s): As stated above the Board will analyze the unusual and yet inevitable expenditures that the Village will face in the near future and, where appropriate, will establish reserves for those expenditures. The Board will review any plans for one-time expenditures and decide whether or not any of those plans should be financed through the unexpended surplus. When this process is complete the Board will consider whether or not there is room in the unexpended surplus that should be reduced through a reduction of property taxes.

Implementation Date: This action will be taken by June 1, 2016.

Person Responsible for Implementation: The Mayor will oversee the process with a committee consisting of member(s) of the Board of Trustees, the Village Clerk/Treasurer and the accountant.

Audit Recommendation “5”

Conduct an annual audit, or acquire an audit, of the Clerk- Treasurer’s records and the Village Justice’s records and dockets.

Implementation Plan of Action(s): The Board has already discussed and approved an RFP to hire an independent auditor to conduct an annual audit of the Clerk -Treasurer’s records and the Village Justice’s records and dockets for the purpose of rendering an opinion thereon. The Board has commenced a search to find an independent auditor and will retain such an auditor as soon as is practicable after its search is complete.

Implementation Date: This action will be taken by September 30, 2015.

Person Responsible for Implementation: Trustee overseen by the Mayor.

Audit Recommendation “6”

Establish a process for an appropriate audit of claims, including, but not limited to, ensuring that:

- A deliberate and thorough audit of all claims is performed by the Board prior to payment*
- Evidence that goods or services were received, and are for a proper and duly authorized Village purpose, is included with the claim.*

Implementation Plan of Action(s): The Board has appointed a Claims Auditor who will implement the use of a “voucher” that will provide for a trail of review for each and every facet and phase of each claim including but not limited to reference to how the claim originated, approval as to how the claim was originated, noting that a valid written contract or agreement is in place, approval by the officer or employee who gave rise to the claim by signing a claim attesting that goods and services were received; that the charges are correct; that no sales tax was included as part of the claim; that the claim is a lawful Village charge, and ultimately reflect that the claim together with the underlying documentation was audited prior to the authorization of payment.

See
Note 6
Page 30

The Board will perform a thorough audit of all claims directly or through the appointment of a claims auditor prior to payment.

Effective immediately, all claims of any nature (recurring or non-recurring) will be approved by the Board before payment using the new “voucher” system.

Implementation Date: This action will be taken by July 1, 2015.

Person Responsible for Implementation: Clerk Treasurer will implement the new audit process, overseen by the Claims Auditor. A Trustee will also audit the claims before they are authorized for payments.

Audit Recommendation “7”

Ensure that valid written contracts or agreements are in place for all claims paid, where necessary, to establish the services to be provided, the time frames for delivery of services and the basis for compensation.

Implementation Plan of Action(s): See Implementation Plan of Action(s) for recommendations “6” above.

Implementation Date: This action will be taken by July 1, 2015.

Person Responsible for Implementation: Clerk Treasurer overseen by the Village Attorney.

Audit Recommendation “8”

Recoup sales tax that was inappropriately paid to vendors for installing dry wells.

Implementation Plan of Action(s): This matter will be discussed with the vendor, however, it is the position of the Board that the vendor did not submit a claim that provided for additional sales tax but rather only the vendors cost of materials as agreed.

Implementation Date: Item on the Board Agenda on May 26, 2015

Person Responsible for Implementation: Village Administrator & Clerk Treasurer will bring the issue before the Board.

Audit Recommendation “9”

Clarify whether the Village newsletter publisher is a Village officer, employee or independent contractor. If the publisher is a contractor, then the Village should cease contracting for publishing services with the Trustee’s spouse.

Implementation Plan of Action(s): The Village will publish and distribute at least one additional newsletter for the purpose of formally publicly disclosing the relationship of the trustee and the

publisher to assure that the technical compliance with the Village's code of ethics meets the practical compliance that has existed for years.

As soon as practicable the Board will attempt to bring the publisher in as a Village employee, contract with another publisher unrelated to any Board member, or chose between the loss of a valued and dedicated Village Trustee and the discontinuance of our important newsletter.

Implementation Date: This action will be taken by July 1, 2015.

Person Responsible for Implementation: Board of Trustees

Audit Recommendation "10"

Develop procedures to ensure that the Village does not enter into future contracts in which an officer or employee has a prohibited interest. In the case of the appointment of spouses of Board members to Village offices or positions of employment, ensure that Board members disclose their relationship to the appointee, recuse themselves from discussions on the appointment and abstain from voting on the appointment.

Implementation Plan of Action(s): The auditors have kindly indicated that they will provide a form of a "voucher" to be used by the Board for all claims and contracts that covers a variety of concerns set forth in the report. Presumably that voucher provides for the Board to review whether or not any particular contract involves an officer or employee that has a prohibited interest. If not we will amend the form provided to include such a provision.

See
Note 5
Page 30

The Board will endeavor to be more conscious to memorialize in the minutes and/or "voucher" the existing long-standing practice of the Village that in the case of the appointment of spouses of Board members to Village offices or positions of employment or any other matter to which they might have an interest the Board members regularly and routinely disclose their relationship to the appointee or other interest, recuse themselves from discussions on the appointment or other interest and abstain from voting.

Implementation Date: This action will be taken by July 1, 2015.

Person Responsible for Implementation: Clerk Treasurer by direction of the Board of Trustees.

Audit Recommendation “11”

Ensure that officers and employees comply with the GML disclosure requirements and the Village’s code of ethics.

Implementation Plan of Action(s): If is not already provided for in the aforementioned voucher to be attached to all claims and contracts provision will be made to consider for any claim or contract whether or not any additional action is required to comply with the GML disclosure requirements and the Village’s code of ethics.

The Board will make a decision whether to hire the publisher as an employee or to discontinue the newsletter in its current format.

Implementation Date: This action will be taken by July 1, 2015.

Person Responsible for Implementation: Clerk Treasurer

Signed:

Daniel H. Serota

Mayor

APPENDIX B

OSC COMMENTS ON THE VILLAGE'S RESPONSE

Note 1

The Board did not have a written long-term financial plan to address how the Village will use the surplus moneys. The plan should address the concerns mentioned in the District's response and should include the likelihood, timeframe and estimated amounts of the District's potential liabilities and long-term capital needs. Additionally, the Board has not communicated the details of these contingencies and the planned use of the accumulated surplus moneys to Village residents.

Note 2

The budgets for the years reviewed did not always include realistic estimates of revenues and expenditures. For the four years reviewed, the Village overestimated appropriations by about \$786,000 and underestimated revenues by about \$633,000. These budgeting variances and the routine practice of appropriating fund balance that will not be used (about \$1.3 million) do not demonstrate a pattern of realistic budgeting practices.

Note 3

Village budgets planned to use \$1.5 million to fund Village operations over the past four years. However, because of the unrealistic budget estimates, it used less than \$250,000 and did not need the assigned fund balance included in those budgets, which resulted in tax levies higher than necessary.

Note 4

The accountant did not perform an independent annual audit of the Clerk-Treasurer's records and reports. Instead, the accountant compiled the financial statements. The accountant did not render an opinion on the financial statements, which is required in an independent annual audit. The accountant also did not perform an independent audit of the Justice's records and dockets. The reports provided by the accountant to the Board explicitly state that they are solely intended to assist the Board with its responsibility to annually audit the Justice's records.

Note 5

The use of a voucher does not address the entire issue raised in this finding. The Board should ensure, pursuant to Village Law, that a deliberate and thorough audit of all claims is performed prior to payment.

Note 6

If the Board chooses to appoint a Village claims auditor to audit claims against the Village, it must first create the office of Village claims auditor.

Note 7

Our conclusion was based on the lack of documentation and our conversation with two Board members who told us that the Board does not, as a matter of procedure, audit all claims. Instead, the Board selectively audits claims that it deems to be unusual in nature. Village Law requires that all claims, with limited exceptions, be audited prior to payment.

Note 8

Village Law requires that the officer or employee whose actions gave rise to the claim approve the claim. The claim should be accompanied by documentation that confirms that the goods were received or services were rendered. This requires the individual originating the claim to attest to that fact in writing. For the Board to assume all goods and services have been received just because a claim is presented for approval does not provide an appropriate level of assurance.

Note 9

Written agreements serve to assure that the services to be provided, the basis for compensation and the contract period are clearly defined and mutually agreed-upon.

Note 10

This practice is not consistent with Village Law or the Village's local law. The Clerk-Treasurer can only pay certain claims in advance of audit which have been specifically authorized by Board resolution. The Clerk-Treasurer paid 13 of the 20 claims we tested in advance of audit, which were not of the type authorized by the Board to be paid in advance.

Note 11

The Village in effect paid sales tax that was transferred to them by the contractor when reimbursing the contractor for the cost of materials. The Village should contact the New York State Department of Taxation and Finance to recoup the sales tax that was inappropriately paid.

Note 12

The Village's procedures do not include a thorough and deliberate audit of all the claims by the Board prior to payment which would prevent unauthorized expenditures, such as paying sales tax.

Note 13

If the publisher of the Village's newsletter is an employee, the Trustee (who is the spouse of the publisher), would still have an interest that would require public disclosure and recusal in matters pertaining to the publisher's employment that may come before the Board.

Note 14

The report in no way states that the Village should give up the newsletter. The Board should clarify whether the publisher of the Village's newsletter is a Village officer, employee or independent contractor. The Board should then take necessary action to ensure that a conflict of interest does not exist.

Note 15

The report indicates that the Board should clarify whether the publisher of the Village's newsletter is a Village officer, employee or independent contractor. Only if it is determined that the publisher is truly an officer or employee would it be required that the Trustee publicly disclose this relationship.

Note 16

The fact that the Board knew of the relationship or that it may be common knowledge among Village residents does not constitute public disclosure. If it is determined that the publisher of the Village's newsletter is an independent contractor, then the Trustee has a prohibited interest.

Note 17

Without soliciting proposals for this service, the Board cannot be certain that no one else has the expertise or knowledge to publish the newsletter or that the cost would be significantly different.

Note 18

Unless a statutory exception applies, GML prohibits municipal officers and employees from having an interest in contracts with the municipality for which they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with any of those powers or duties. Municipal officers and employees are also deemed to have an interest in the contracts of their spouse. For this purpose, a contract includes any claim, account, demand against or agreement with a municipality. One exception is for a contract in which the total consideration payable, when added to the aggregate amount of all consideration payable under contracts in which the officer or employee had an interest during the fiscal year, does not exceed \$750 during the fiscal year. Payments to the publisher exceeded \$7,000. Therefore, this exception does not apply.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to assess the Board's oversight of the Village's financial activities and to examine the internal controls over selected financial activities for the period June 1, 2013 through June 30, 2014. We extended our scope back to June 1, 2010 to analyze the Village's fund balance and to provide additional information for perspective and background. To achieve our audit objective and obtain valid evidence, we performed the following audit procedures:

- We interviewed Village officials, including the Mayor, two Trustees, the Clerk-Treasurer and the Superintendent of Buildings and Public Works, regarding Village operations.
- We reviewed the Village's policies and procedures, including the code of ethics.
- We reviewed the Village's financial records and reports for fiscal years 2010-11 through 2013-14, including budgets and annual reports. We prepared an analysis of fund balance.
- We analyzed the changes in fund balance and variances in budget-to-actual revenues and expenditures. We investigated significant variances.
- We calculated operating deficits or surpluses and analyzed the use of appropriated fund balance as a funding source.
- We traced \$2.9 million in real property tax receipts from the Statement of Revenues for May 31, 2014 to the Village's annual update document (AUD) and to Nassau County's certified tax roll.
- We traced the cash reported on the year-end May 31, 2014 balance sheet totaling \$2.9 million to the Village's AUD and to the bank statements.
- We traced the five largest expenditures totaling \$2.76 million from the Statement of Expenses report prepared by the Clerk-Treasurer for year-end May 31, 2014 to claims, invoices, check stubs and other source documents.
- We randomly selected a sample of 20 claims totaling \$9,445 out of 686 claims paid during the audit period totaling \$4.34 million to determine whether claims were for legitimate Village purposes, were supported by itemized invoices and were consistent with contractual agreements when applicable, and to determine if the receipt of goods or services was documented. In addition, we tested these claims to determine if the Clerk-Treasurer paid any claims prior to Board authorization.
- We reviewed Board minutes related to the appointment of the Village publisher and for evidence of public disclosure by the Trustee of any interest in the Village's contract with the Village publisher.

- We reviewed the claim packages for all the invoices (totaling four invoices) submitted by the Village publisher during the audit period. We interviewed Village officials to determine the basis for the payments and the services to be rendered.

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

APPENDIX D

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