



Village of Upper Brookville

Justice Court

Report of Examination

Period Covered:

June 1, 2011 — September 30, 2012

2013M-160



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2013

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 Upper Brookville, entitled Justice Court. 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 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*

Introduction

Background

The Village of Upper Brookville (Village) is located in Oyster Bay in Nassau County. The Village covers approximately 4.3 square miles and has a population of approximately 1,700. The Village is governed by a Board of Trustees (Board) comprising four elected trustees and an elected Mayor. The Board provides general administrative services, including the Village Justice Court (Court), and is responsible for overseeing the Court's general management and financial operations.

The Court has jurisdiction over and is responsible for hearing vehicle and traffic violations, as well as certain civil cases. The Justices' principal duties involve adjudicating legal matters within the Court's jurisdiction and administering moneys from fines, surcharges, civil fees and restitutions. Justices are required to report the financial activities of the preceding month to the Office of the State Comptroller's Justice Court Fund (JCF). The Court has one Justice, John Pieper, who has served as Justice since June 2001, and one Acting Justice, Edward Dolido, who has served as Acting Justice since July 2007. The Village shares its court clerk with two other villages; each village pays the court clerk a separate salary. During our audit period, the Justices reported \$92,851 in fines, fees, and surcharges to the JCF.

Objective

The objective of our audit was to determine if the Board and Justices established adequate review procedures and oversight over the court clerk for the period June 1, 2011, to September 30, 2012. Our audit addressed the following related question:

- Were internal controls over Court operations appropriately designed and operating effectively to ensure the proper accounting of financial transactions?

Scope and Methodology

We examined the Court's records and reports for the period June 1, 2011, to September 30, 2012.

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 is included in Appendix B 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. Village officials generally agreed with our findings and indicated they plan to initiate, or have already initiated, corrective action.

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's office.

Accountability and Oversight

Village Justices are responsible for adjudicating all cases brought before the Court and maintaining sufficient records to render a full accounting of all moneys received, all disbursements made and the balance of moneys remaining. The Justices are also responsible for establishing internal controls to ensure that all fines and fees received are properly recorded, remitted, and protected against error, loss or misappropriation. The Justices must ensure that internal controls are working effectively, particularly when there is a limited segregation of duties. This is accomplished, in part, by ensuring that the work performed by those involved in the Court's financial operations is monitored and reviewed routinely. The Board is also responsible for exercising sufficient oversight of Court operations and monitoring Court personnel to help ensure that transactions are properly recorded and reported, and that moneys are properly accounted for.

While the court clerk maintained complete, accurate and timely monthly bank reconciliations and cash accountability reports, the Justices did not review these reconciliations and reports. This is of particular concern because the court clerk performed all financial transactions and the Justices did not review her work to ensure that it was accurate and complete. Further, the Village did not maintain time records for the court clerk. As such, Village officials do not have assurance that the court clerk worked all of the hours for which she was paid.

Monthly Reports to the Justice Court Fund

Justices must, within 10 days after the end of the month in which moneys were collected, submit a monthly report to the JCF of all cases adjudicated and the fines, fees and surcharges collected. The Justices file the monthly report electronically and immediately remit all reported receipts to the Village Treasurer. The JCF then bills the Village for the JCF's portion of the amount reported by the Justices.

Although the Justices have submitted all monthly reports to the JCF in a timely manner, we found that the Justices did not always remit the reported moneys to the Treasurer in a timely manner. For five of the 16 months in our audit period,¹ the Justices paid the Village a total of \$18,415 between 12 and 57 days after the Village had paid the invoice from the JCF for these amounts. The payments ranged between \$1,680 and \$6,415.

¹ See Appendix B, Audit Methodology and Standards, for details on our sample selection.

Electronic reporting is designed to improve the Village's cash flow by allowing it to retain all of the Court's reported collections until billed by the JCF, instead of waiting for the JCF to return the local portion. Such improvement was defeated when the Justices failed to remit the Court's reported moneys to the Treasurer in a timely manner.

Timeliness of Deposits

Justices are required to deposit intact (in the same amount and form – currency, check, money order, or credit card receipts – as received) all moneys collected by the Court into the official bank accounts as soon as possible, but no later than 72 hours from the date of receipt, excluding Sundays and holidays.

The Justices did not provide sufficient oversight of the court clerk to ensure that deposits were made within 72 hours of receipt. Moneys are accepted in person only on the day that Court is in session; thereafter, the court clerk receives moneys through the mail. However, the court clerk usually prepares and makes bank deposits only once per month, generally two or three days after Court is held.

We examined the five deposits (comprising 112 individual payments) totaling \$31,560 made in June 2011, December 2011, January 2012, February 2012, and July 2012.² Each of these deposits was made either the day that Court was held or within one or two days after, with no other deposits made for those months. Of these 112 receipts, we found that 21 receipts totaling \$8,250 were deposited between six and 30 days after the moneys had been received. Furthermore, upon performing a cash count of the undeposited funds on February 12, 2013, we found that, while the court clerk had no cash on hand, there were nine checks totaling \$1,535 that were dated between 14 and 36 days prior to our cash count.

When deposits are not made in a timely manner, the risk is increased that Court funds could be lost or misappropriated.

Court Clerk's Time Records

While the court clerk may report primarily to the Justices, the Board has administrative control over the Court, including staffing, policies, fixing hours, and governing day-to-day operations. To accomplish this, the Board is responsible for establishing appropriate controls over the payroll process to ensure that the Village pays its employees only the salary to which they are entitled. The Board should adopt policies and procedures that specify services to be provided, the expected work hours and work location, and the requirements for time records. To

² See Appendix B, Audit Methodology and Standards, for details on our sample selection.

ensure that employees receive only the compensation to which they are entitled, Village officials must require that employees maintain detailed time records that document starting and ending times and the work performed. It is essential that employees and their supervisors sign timesheets to certify that the recorded time is correct, authorized, and reflects the actual time worked.

The Board has not established any policies or procedures requiring the court clerk to record, sign, and submit timesheets for time worked to her supervisor for approval. The Village paid the part-time court clerk \$28,500 for the fiscal year ended May 31, 2012; the court clerk also works for courts at two other villages. The Village has not established the court clerk's standard office or work hours or her work location. The court clerk's job duties include answering phone calls, being in the office to take pleas, and accepting payment and giving receipts. However, the court clerk is only present at the Village when Court is in session; at all other times, she works from her home office, where she maintains all Court records and accepts payments only through the mail. The Village is paying the court clerk for 15 hours each week; however, the Village does not maintain, or even require the court clerk to submit, any time records to support that she actually worked those hours.

Due to the lack of time records for the court clerk, there is no accountability for the hours worked, which increases the risk that the Village could pay for hours that were not worked.

Segregation of Duties

The Board and the Justices are responsible for establishing controls so that no one single individual handles all or most aspects of the Court's accounting. Specifically, it is important that one person does not have the ability to control the entire cash collection and recordkeeping processes. When it is not practical to segregate Court duties, compensating controls can be implemented through timely and effective oversight by the Justices and, ultimately, the Board. These controls are essential to help ensure that transactions are properly recorded and reported, and that all moneys are accounted for.

The Justices did not establish adequate procedures to monitor the court clerk's duties or review her work. The court clerk performed several key aspects of the Court's cash accounting functions with limited oversight. Her duties included accepting payments, opening mail, issuing receipts, making deposits, signing checks, preparing monthly reports to the JCF, and maintaining all other Court records and files. When the same person is responsible for receiving, recording, depositing, and disbursing cash and for preparing monthly reports, there is an increased risk that cash could be misappropriated and records adjusted to conceal the misappropriation.

Due to poor segregation of duties and the lack of oversight, we obtained information electronically from the State Department of Motor Vehicles, the JCF, and the Court's records, and compared the information to determine if cases were accounted for properly. We also examined financial and other records related to Court receipts, deposits, and subsequent disbursement of moneys, including duplicate receipts issued for fines, surcharges, and civil fees; records of cash receipts and disbursements; monthly reports to the JCF; bank statements; canceled checks; and other related records. Other than deposits not being made timely (see section entitled Timeliness of Deposits), we found no exceptions to the amounts collected, reported, and accounted for by the court clerk.

Recommendations

1. The Justices should ensure that all moneys collected and reported to the JCF for fines, fees, and surcharges are remitted to the Village Treasurer upon submission of the monthly report.
2. The Justices should ensure that deposits of all moneys received are made intact and within 72 hours from the date of receipt, excluding Sundays and holidays.
3. The Justices and the Board should work together to establish policies and procedures that document the duties to be performed by the court clerk, as well as the court clerk's expected work hours and work location. These policies and procedures should include the process for maintaining detailed time records that properly account for the hours worked and contain a certification from the Justice that the hours worked are accurate.
4. The Justices and the Board should work together to establish policies and procedures to ensure an adequate segregation of cash custody and recordkeeping duties, or institute compensating controls. Compensating controls may include a monthly review of Court records by the Justices and a periodic review of the Justices' accountability reconciliation by the Board.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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

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August 20, 2013

Office of the State Comptroller
Division of Local Government
And School Accountability

In response to the Justice Court Audit, the Board of the Village of Upper Brookville will make the following changes to improve operations and review procedures & oversight over the Court Clerk:

- The Justices will review monthly bank reconciliations & cash accountability reports for accuracy and completeness.
- Starting from week ending 11/21/12, detailed weekly time records that properly account for the Court Clerk's hours worked have been submitted to the Clerk/Treasurer & certified by the Justices.
- The Justices will ensure that all moneys collected by the Court are deposited intact into the official bank accounts as soon as possible, but no later than 72 hours from the date of receipt, excluding Sundays and holidays.
- The Justices will ensure that all moneys collected by the court will be remitted to the Treasurer within 10 days after the end of the month in which moneys were collected.
- The Board & Justices will work together to amend the existing job description of the Court Clerk to accurately reflect the responsibilities of the position.
- On January 15, 2013, the Board passed a resolution to establish a Standard Work Day.
- The Board has requested the Justices to present a quarterly report related to Court receipts, deposits and subsequent disbursement of moneys.

Board of Trustees
Village of Upper Brookville

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

During this audit, we examined the Justice Court's operations for the period June 1, 2011, to September 30, 2012. Our audit procedures included examining the Court's financial activity, procedures, records and reports. To accomplish our audit objective and obtain valid audit evidence, we interviewed appropriate officials and employees and tested selected records and transactions. Our procedures included the following steps:

- We examined financial and other records related to Court receipts, deposits, and subsequent disbursement of moneys. These records included duplicate receipts issued for fines, surcharges and civil fees; records of cash receipts and disbursements; monthly reports to the JCF; bank statements; canceled checks; and other related records.
- We obtained information electronically from the Department of Motor Vehicles, the JCF, and the Court's records, and compared the information to determine if cases were accounted for properly.
- We performed a cash count and attempted to reconcile the Justices' cash assets with known liabilities as of February 12, 2013.
- We judgmentally selected the five months of June 2011, December 2011, January 2012, February 2012, and July 2012, based on a particular item appearing to be deposited later than it should have been in each of those months. We compared the receipt records for these months (112 individual receipts totaling \$31,560) to bank deposit slips to determine if the court clerk had made deposits completely, timely, and in the correct form (i.e., cash vs. check).
- We examined employment agreements and payroll records for the court clerk.

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

APPENDIX C

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