

Town of Andes

Conflict of Interest and Cash Receipts and Disbursements

JANUARY 2020



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

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Report Highlights

Town of Andes

Audit Objectives

Determine whether the Board ensured that Town officials did not have prohibited interests in Town contracts.

Determine whether Town officials ensured that the Supervisor's disbursements were proper and the Clerk's cash receipts were properly billed, collected and deposited.

Key Findings

- A Board member had a prohibited interest in the contracts between the Town and his machining company.
- The Supervisor did not properly segregate the disbursement duties of his office as the bookkeeper controls most aspects of the disbursement process.
- The Clerk collects, deposits, reconciles and reports all aspects of her cash receipts, including water and sewer rents, with limited oversight.

Key Recommendations

Town officials should:

- Ensure that officials and employees are familiar with and follow the requirements of New York State General Municipal Law Article 18 as they relate to conflicts of interest.
- Improve oversight of the Clerk's water and sewer cash receipts and billing process.

The Supervisor should:

- Segregate the disbursement duties of his office or implement compensating controls.

Background

The Town of Andes (Town) is located in Delaware County. The Town is governed by an elected five-member Board (Board), composed of four Council members and the Town Supervisor. The Board is responsible for the Town's general management and control of the finances including overseeing the Town Clerk's (Clerk) financial activities.

The elected Clerk collects fees for death certificates, marriage licenses, building permits, dog licenses and New York State Department of Environmental Conservation (NYSDEC) licenses as well as water and sewer rents.

The Town contracts with an environmental company who provides a Water and Sewer Superintendent to oversee daily water and sewer operations. This person is not responsible for providing oversight of the billing and collection of water and sewer rents.

Quick Facts

| | |
|------------------------------|---------------|
| Population | 1,301 |
| 2019 Budgeted Appropriations | \$2.6 million |
| 2018 Clerk Collections | \$102,163 |

Audit Period

January 1, 2018 – January 9, 2019

Conflict of Interest

How Should a Board Address Conflicts of Interest?

New York State General Municipal Law (GML)¹ limits the ability of municipal officers and employees to enter into contracts in which their personal financial interests and public powers and duties conflict. 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 have the power or duty – either individually or as a board member – to negotiate, prepare, authorize or approve the contract; authorize or approve payment under the contract; audit bills or claims under the contract; or 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 the municipality.

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 with the municipality they serve. Municipal officers and employees are also deemed to have an interest in the contracts of, among others, a firm, partnership or association of which they are a member or employee. 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 municipal governing body, and be included in the official record of the governing body’s proceedings.

A Board Member Had a Prohibited Conflict of Interest

A Board member and his spouse are the owners of a local machining company, organized as a partnership, from which the Town purchases materials, services and supplies. During our audit period, the Town made seven purchases from the machining company totaling \$3,029. Each purchase by the Town of materials, services or supplies from the machining company resulted in an “agreement” for the sale of goods at a certain price with the Town and, thus, a “contract” for purposes of GML Article 18. As an “owner” of the partnership, it appears that the Board member is deemed to have an interest in each contract by virtue of being a member of the partnership. As a member of the Board, the Board member also has one or more of the powers and duties that can give rise to a prohibited interest, including the ability to authorize or approve contracts, authorize or approve payments under contracts, audit bills or claims under the contracts or appoint someone to perform that function.

Accordingly, because we found no indication that any of the statutory exceptions² applied to these circumstances, it appears that the Board member had a

1 New York State General Municipal Law (GML) Article 18

2 For example, one exception in GML is for contracts when the total consideration payable in the aggregate during a fiscal year does not exceed \$750. We found that the contracts with the machine company, in the aggregate, exceeded \$750 in each of the fiscal years we reviewed.

prohibited interest in the contracts between the Town and the machining company. We reviewed all the invoices submitted by the machining company during our audit period. Although our testing did not reveal any irregularities in pricing, when officials, in their private capacities, conduct business with the municipality for which they serve, the public may question the appropriateness of these transactions. Such transactions may create an actual conflict of interest or, at a minimum, the appearance of impropriety.

What Do We Recommend?

1. Town officials should ensure that officials and employees are familiar with and follow the requirements of GML Article 18 as they relate to conflicts of interest.

Cash Receipts and Disbursements

How Do Officials Ensure That the Supervisor's Disbursements Are Proper?

Town officials are responsible for creating policies and procedures that establish internal controls to ensure that one individual does not perform all aspects of cash disbursement functions. Sufficiently segregating duties is a key element of internal controls. When it is not feasible to segregate duties, additional oversight is necessary as a compensating control. Oversight activities can include reviewing bank reconciliations, bank statements and canceled check images.

The Supervisor Did Not Segregate Duties or Implement Compensating Controls

The Supervisor appointed a bookkeeper who performed most of the cash disbursement duties without sufficient oversight. The bookkeeper processed the checks, recorded transactions and reconciled bank statements. While the Supervisor signed the checks and the Board approved vouchers, no one other than the bookkeeper reviewed the bank reconciliations, bank statements or canceled check images to ensure that all disbursements made were Board-approved and for proper purposes.

Due to the lack of adequate segregation of duties and compensating controls, we tested:

- 78 non-payroll disbursements totaling \$363,732 to determine if they were adequately supported and for proper Town purposes.
- All electronic bank transfers totaling approximately \$1.8 million to ensure they were deposited into another Town bank account.
- All June 2018 gross payroll payments to employees totaling \$49,020 to determine that the disbursements were to Town employees, and that amounts for wages and deductions were for proper amounts.

We also scanned all payroll-related bank statements and canceled check images for any unusual disbursements. Except for minor discrepancies which we discussed with officials, all disbursements were supported by adequate documentation and for appropriate Town purposes.

How Do Officials Ensure the Clerk's Cash Receipts Are Properly Billed, Collected and Deposited?

Town officials are responsible for establishing an internal control system over cash receipts so that town revenues are properly collected, safeguarded and accounted for. When segregating incompatible duties is not practicable, officials should implement compensating controls such as routinely reviewing and monitoring the work of employees with incompatible financial duties to ensure

that money is properly accounted for. For example, officials should review water and sewer bills before they are printed and sent to customers and assess the completeness and accuracy of the water and sewer billing register and bills. The assessment could include comparing the total amounts billed with prior billing amounts or comparing the number of bills to be printed with the register of customer accounts. The board should also review and approve the list of relieved water and sewer accounts to ensure that all overdue accounts are properly relieved.

Officials Did Not Segregate the Clerk’s Duties Related to Water and Sewer Rents or Implement Compensating Controls

The Clerk performs all cash receipts duties, including billing for water and sewer rents, receiving cash,³ recording transactions, depositing money and reconciling her bank account, without sufficient oversight. There is no routine review of cash receipts activity by someone independent of the collections process. Furthermore, the Board did not review and approve the list of unpaid water and sewer accounts to be relieved.

Because of the lack of oversight, we reviewed 44 water bills totaling \$10,220 and 24 sewer bills totaling \$5,048 and of these, \$13,612 was collected and traced to the Clerk’s daily cash reports and to her bank account, while the remaining balance of \$1,656 was traced to the unpaid listing. We also compared the amounts billed to the approved rates, including penalties and interest. We compared all unpaid water and sewer accounts totaling \$19,820⁴ to real property tax bills to ensure they were relieved at the proper amounts and sent confirmations to property owners who were on the relevy list to verify amounts owed. In addition, we reviewed three months of conservation licenses and building permits, totaling \$1,915, issued by other Town departments to ensure they were properly recorded and deposited. All receipts were properly billed, collected and deposited.

Control weaknesses exist because the Supervisor and Clerk did not implement compensating controls, such as supervisory or other oversight procedures designed to reduce the risk of errors or fraud occurring or not being detected. There are also no written policies or procedures over the Supervisor’s disbursement process and the Clerk’s receipt process. The Supervisor told us he followed the procedures that were in place when he was elected. Because no significant issues arose, he did not change the procedures.

3 The Clerk collects fees for death certificates, marriage and dog licenses, NYS Department of Environmental Conservation licenses, planning and zoning, building inspections and code enforcement.

4 Includes penalties and interest

What Do We Recommend?

The Supervisor should:

2. Segregate the duties of his office, or implement compensating controls, to ensure that disbursements are proper.

The Board should:

3. Establish policies and procedures for water billing and collections.
4. Provide sufficient oversight of the water and sewer billing and collection process.
5. Approve water and sewer rent accounts to be relieved.

The Clerk should:

6. Prepare a complete and accurate water and sewer relevy list for the Board's approval.

Appendix A: Response From Town Officials

Andes Supervisor Wayland 'Bud' Gladstone

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December 26th, 2019

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Binghamton Regional Office
State Office Building, Suite 1702
44 Hawley Street
Binghamton NY 13901-4417

RE: Town of Andes Audit 2019M-194

To Whom it May Concern:

The Town of Andes would like to thank the Office of the New York State Comptroller for their detailed audit of our municipality for the period of January 1, 2018-January 9, 2019. Please accept this letter as our audit response and corrective action plan. Town Officials find the audit findings to be fair and helpful in improving the functioning of the town government.

In response to the audit recommendations, the Town of Andes will complete the following:

1. Town officials should ensure that officials and employees are familiar with and follow the requirements of GML Article 18 as they relate to conflicts of interest.

Action: The Town Board acknowledges the conflict of interest cited in the findings of this audit. At this time the board will be monitoring the situation.

2. The Supervisor should segregate the duties of his office, or implement compensating controls, to ensure that disbursements are proper.

Action: The Town Board agrees with this assessment. During the course of the audit, the board has assigned a board member, who is not a signer of any checks, to reconcile the bank statements with the warrants to verify all disbursements.

The Town of Andes is an equal opportunity employer and provider. To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W. Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

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3. The Board should establish policies and procedures for water billing and collections
 4. The Board should provide sufficient oversight of the water and sewer billing and collection process
 5. Approve water and sewer rent accounts to be relieved.

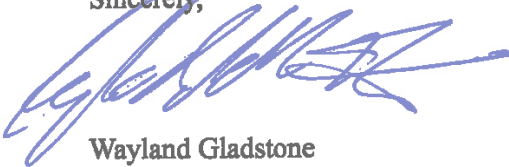
Action: The Town Board is working to develop policies and procedures for water and sewer billing collections. This will be established prior to the first 2020 billing cycle. The Town Board reviews the water and sewer billing at the annual audit and will continue to do so. The Town Board will continue to monitor the water and sewer billing collections.

6. The Clerk should prepare a complete and accurate water and sewer relevy list for the Board's approval.

Action: A relevy list is completed every year and will continue to be completed by the Clerk. As will be established in the boards policies and procedures, the list will be shown to the committee prior to finalization.

The Town Board plans to implement the above actions immediately. Again, I would like to thank the NYS Comptroller's Office for their diligent work. The Town of Andes is very happy with the findings and recommendations.

Sincerely,



Wayland Gladstone
Andes Supervisor

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Appendix B: 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 objectives and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and reviewed Board meeting minutes to gain an understanding of controls in place over determining prohibited conflicts of interest.
- We made inquiries of Town officials to identify their outside employment interests or business ownerships and reviewed vendor reports and Board-approved abstracts to identify payments made to officials, their spouses and dependents or related employers, firms, corporations or associations that may indicate a potential improper or undisclosed interest in contracts.
- We reviewed all the invoices paid to the Board member's machining company during our audit period to determine the total amount the Town paid to the company and whether prices charged were reasonable.
- We interviewed Town officials and reviewed Board meeting minutes to gain an understanding of internal controls in place over the Supervisor's disbursements procedures and the Clerk's cash receipts process.
- Using a random number generator, we selected 50 non-payroll disbursements from data on the Town's software program. To ensure the data was complete, we compared bank statement data to the data from the software program to ensure that there were no disbursements that cleared the bank that were not included in the Town's data. In addition, we judgmentally selected 28 non-payroll disbursements from various accounts' canceled check images and traced to supporting documentation to determine if they were properly supported and for proper Town purposes.
- We chose the June 2018 payroll to determine if all disbursements were to Town employees, for the proper salary/hourly rates, and reviewed and recalculated withholdings. We also reviewed bank statements and canceled check images for the scope period for any unusual payments.
- We reviewed bank statements for our scope period for all Town bank accounts for transfers and withdrawals totaling almost \$1.8 million to determine if they were for proper purposes or deposited into another Town bank account.
- We reviewed check sequences for our scope period and identified any breaks in sequence to determine the status of the check numbers identified.
- We reviewed the Clerk's listing of all billed customers for water and sewer rents. We compared this list by tax map number to the water and sewer district maps, and to all Town tax map numbers through NYS Office of Real Property Tax Services to identify properties within the water and sewer

districts that were not receiving bills. For the properties not receiving bills, we reviewed the properties with the Water and Sewer Superintendent and Town officials to determine if their exclusion from billings was proper.

- We reviewed the Clerk's water and sewer rent billing records for our scope period and compared the amounts in the billing records to the Board-approved budgets to determine if the amounts billed were for the rent amounts and if any penalties and interest were properly assessed.
- We randomly selected 20 customer accounts and judgmentally selected four high-risk bills (two to relatives of the Supervisor, one to the Zoning Board of Appeals and Planning Clerk and one to a Board member) to determine if the rates billed were proper and the amounts collected were properly deposited and reported.
- We sent verification letters to all customers included on the unpaid water and sewer rents relevy list to determine if their records agreed with the Clerk's assessed amounts.
- We compared all accounts on the relevy list to copies of Town and County real property tax bills to determine if all unpaid accounts were relevied and for proper amounts.
- We judgmentally selected March, June and December 2018 for the collection of receipts by other Town departments for conservation licenses and building permits issued, totaling \$1,915, and traced the amounts to the Clerk's monthly reports and bank account to ensure they were properly recorded and deposited.

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.

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's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

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

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

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

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

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

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

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

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

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

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

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

Contact

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110 State Street, 12th Floor, Albany, New York 12236

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