



Town of Cambria Capital Projects Financing

Report of Examination

Period Covered:

January 1, 2015 – May 11, 2017

2017M-161



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

January 2018

Dear Town 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 Town 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 Town of Cambria, entitled Capital Projects Financing. 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*

Introduction

Background

The Town of Cambria (Town) is located in Niagara County (County) and has a population of approximately 5,800. The Town is governed by an elected five-member Town Board (Board), which is composed of a Town Supervisor (Supervisor) and four Council members. The Board is responsible for the general oversight and control of the Town's operations and finances. The Supervisor serves as the Town's chief fiscal officer and is responsible for the Town's day-to-day financial operations, including preparing the accounting records and financial reports.

The Town provides various services to its residents, including highway maintenance, snow removal, water and sewer, refuse collection and general government administration. Budgeted appropriations for 2017 totaled \$5.1 million and were funded primarily with sales tax, real property taxes, State aid and user charges. The Town also maintained four capital projects funds: Waterline Construction, Town Park Comfort Station, Highway Equipment and Sewer Construction.

Objective

The objective of our audit was to review capital project finances. Our audit addressed the following related question:

- Did the Board and Town officials properly plan for the financing of capital projects?

Scope and Methodology

We examined capital project records for the period January 1, 2015 through May 11, 2017.

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 Town Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials agreed with some of our findings and indicated they would take certain corrective action. Appendix B includes our comments on issues raised in the Town'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 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 Town Clerk's office.

Capital Projects

Town activities that involve the construction of permanent improvements or the acquisition of equipment are considered capital projects. When the Board deems it necessary to issue bonds and/or bond anticipation notes (BANs) to finance, in part or whole, capital project costs, it must first formally adopt a bond resolution that sets forth, among other things, the estimated maximum cost of the capital project and, generally, the financing plan for the capital project. The Supervisor is required to account for the improvements or acquisitions in a capital projects fund when they are financed with debt proceeds.¹

New York State Local Finance Law requires the proceeds of bonds and bond anticipation notes (BANs) to be used solely for the object or purpose for which the debt was issued. When a project is complete, any residual bond or BAN proceeds must be applied to the payment of the debt service on that debt. Bond and BAN proceeds may not be used to reimburse the Town for capital project expenditures made before the Board authorized the bonds to be issued.

The Board and Town officials did not act in full compliance with relevant State statutes that govern the issuance of municipal debt. As a result they did not properly plan for the financing of capital projects. Had they better managed the finances of these projects, the Town could have saved approximately \$10,200 in issuance costs related to the bonds and approximately \$19,200 in annual interest on debt. Also, the Board did not adopt a bond resolution before issuing a BAN and the Town did not restrict unexpended BAN proceeds to repay the related outstanding debt. Finally, the cash balance in the sewer construction capital projects fund as of December 31, 2016 was approximately \$130,000. Town officials were unsure of the source of some of the cash balance. A capital projects fund should not be used to account for excess cash.

Waterline Construction² – The Town issued a short-term BAN for \$815,000 to fund this project. Of the total BAN proceeds received in

¹ Local Finance Law Section 165.00 requires that the proceeds of the sales of bonds and BANs must be deposited and secured in a special bank account. Generally, the proceeds may not be commingled with other Town funds. However, the Board may adopt a resolution providing that money appropriated for the same purpose for which the bonds or BANs have been authorized may be deposited in the same bank account with the proceeds.

² This project was formally known as the Comstock, Suberra, Cambria (CSC) waterline capital project. In September 2015, the Board, by resolution, approved the issuance of \$704,000 of bonds to finance the installation of waterlines. The resolution indicated that the project's maximum estimated cost to be \$704,000. In June 2016, the Board, by resolution, increased the amount of debt to be issued and the maximum project cost to \$815,000.

November 2016, 97 percent were not needed to fund the waterline project and remained on deposit in a Town bank account. The Town could have avoided incurring issuance costs (\$8,150) and annual interest costs (\$15,077) on this unneeded debt.

The waterline project costs, which totaled \$832,048, were financed with residual cash on deposit from prior projects and interfund transfers. The Town transferred cash totaling \$371,000 in August 2015 (\$170,000) and September 2016 (\$201,000) from the water district fund to the waterline construction capital project's fund. These transfers were in the adopted water district budget, but the intended use of the cash was not described. According to Town officials, these transfers were not part of the financing plan for this waterline construction project. If the Board planned to use this cash for another capital project, the Supervisor should have set up a separate capital project fund to account for this cash.

As of December 31, 2016, cash of approximately \$794,000 remained in the waterline construction capital projects fund, mainly from the unexpended BAN proceeds. The Town did not restrict this cash in the debt service fund to repay the outstanding BAN.

Town Park Comfort Station – Capital project records show that the Town spent \$530,697 on the comfort station and financed the project with \$429,973 in cash from the general fund, \$80,000 in Greenway Commission funds and \$20,724 of Tribal Compact money. As of May 1, 2017, the project was complete.

On February 9, 2017 the Board approved, by resolution, a bond issuance of \$200,000 to provide funding for the comfort station's construction.³ In anticipation of issuing bonds, the Town issued a BAN. On that same date, Town officials held a public hearing to discuss the comfort station's construction. As noted in the minutes, the Supervisor indicated that the project was "about 95 percent completed." We note that approximately \$472,000 (89 percent) of the project costs had been paid for by the meeting date. Therefore, the Town did not need to issue a \$200,000 BAN to finance project costs. Issuance costs for this debt were approximately \$2,000 and annual interest costs for this debt was \$4,100.

On March 20, 2017, the Town received the \$200,000 BAN proceeds, which were deposited into the general fund checking account to reimburse the general fund for project costs. However, the Town lacks authority to use the proceeds to reimburse itself for expenditures made prior to the bond resolution's adoption authorizing the issuance

³ The estimated maximum cost of the project, as indicated in the bond resolution, was \$544,782.

of the project's bonds. The Supervisor should have set aside the proceeds in the debt service fund to repay the outstanding BAN rather than reimburse the general fund. Furthermore, it is unclear whether the Board intended to provide a temporary advance or permanently transfer general fund cash to finance the project. The minutes did not indicate that the Board approved any interfund advance, as required.⁴ However, as noted, the Town was not authorized to apply BAN proceeds to reimburse any such temporary advance.

Highway Equipment – In August 2016, the Town purchased a 2017 model year dump truck for \$201,838 net of a \$25,000 trade-in of another vehicle. The Town paid for the truck in December 2016 with \$105,827 of cash from the highway equipment capital projects fund, a \$21,838 transfer from the highway fund and \$80,000 from a BAN issued in November 2016.

The BAN was issued without Board approval. The BAN states that “This note is ... issued pursuant to proceedings duly adopted by the Finance Board of the [Town], dated November 20, 2016.” A Board meeting was not held on that date. Although a public hearing was held on November 10, 2016 for an opportunity for public comment on the proposed truck purchase, the minutes do not indicate that a bond resolution was approved by the Board subsequent to the public hearing, the last Board meeting prior to the BAN issuance. Town officials were unable to provide us with any explanation as to why the Board did not adopt a bond resolution before the BAN was issued. The Town's issuance of BANs without a bond resolution of the Board is not in accordance with the Board's power to authorize the issuance of bonds.

Sewer Construction – The cash balance in the sewer construction capital projects fund as of December 31, 2016 was approximately \$130,000. This cash balance included a \$60,000 budgeted transfer from the sewer district fund in 2016, \$20,000 of revenue received from the County in 2016 and cash that had accumulated in prior fiscal years. Town officials were unsure of the source of the cash that had accumulated from prior fiscal years.

A capital projects fund should not be used to account for excess cash. If the Board wants to accumulate sewer funds to help finance a future capital purchase, it should create a capital reserve pursuant to GML. If debt was issued to fund a capital project, residual cash balances from a completed project should be transferred to the debt service fund and used to repay the outstanding debt.

⁴ General Municipal Law (GML) Section 9-a

Recommendations

The Board should:

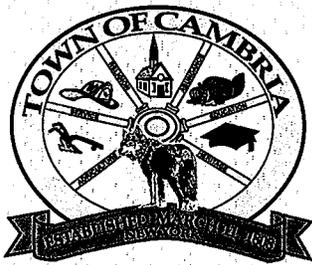
1. Take necessary action to obtain a better understanding of municipal debt issuance and management.
2. Adopt a bond resolution prior to starting a capital project and prior to issuing BANs.
3. Approve the issuance of debt only when it is needed to fund project costs.

The Supervisor should:

4. Set aside unspent waterline BAN proceeds in the debt service fund and use it to pay off the BAN.
5. Transfer comfort station BAN proceeds improperly deposited in the general fund to the debt service fund and use it to pay off the BAN.
6. Identify the source of unidentified cash in the sewer construction capital projects fund and:
 - Use the cash to pay the outstanding debt if it is unexpended debt proceeds.
 - Consider creating a capital reserve fund, if the cash is intended for a future capital project.
 - Return the cash to the sewer district, if it is surplus funds.

APPENDIX A
RESPONSE FROM TOWN OFFICIALS

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



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Wright H. Ellis, Town Supervisor

TO: Office of State Comptroller
Division of Local Government

Response of Town of Cambria to the Draft Report
(2017 M-161) Period January 1, 2015 - May 11, 2017

This letter constitutes the Response of the Town of Cambria Town Board and Supervisor in regard to the issues and concerns identified in the Draft Report.

It has always been the intention of the Town Board and Supervisor to faithfully comply with all laws and regulations relating to the financing of Town Capital Projects. It has never been the intent or practice of the Town Board or Supervisor to deliberately disobey or evade any required lawful procedure relating to the financing of capital projects. It is the intention of the Town Board and Supervisor to address the issues and concerns identified, resolve them in a manner satisfactory to the Comptroller, and take any necessary corrective action.

As to the Water Line Project and Town Park Comfort Station, as a general proposition, in each instance, bond funding was required to finance the project. At no time during either project did the Town possess sufficient monies on hand that were in excess of budgetary requirements for the payment of Town operating expenses. Therefore, the Town Board determined that BAN financing and the associated borrowing costs were going to be incurred as part of that process. The Board and Town management did properly plan for the financing of capital projects.

Water Line Construction (p.5.):

The Town Board respectfully disagrees with the assertion set forth that this was an unneeded debt. The Town Board does not understand the basis of the statement (p. 6.) that “these transfers were not part of the financing plan for this water line construction project.” Town Board financial planning for the water line construction always included these funds, as set forth in the Budget Detail Sheets associated with the 2015 and 2016 Budgets.

See
Note 1
Page 12

As to the \$794,000 remaining:

The Town advanced \$791,998.71 after passing the bond resolution on September 10, 2015. It appears since the advances were subsequent to the Bond Resolution, these advanced funds may be repaid to the Town. After repaying these advances, there will be the sum of \$2,001.29 remaining from the \$794,000. This amount will be restricted to payment toward the BAN. The amount advanced by the Town prior to the September 10, 2015, Bond Resolution is \$40,050. This amount will not be repaid to the Town out of the BAN funds.

Town Park Comfort Station (p.6.):

The delay in adopting the bond resolution related to the uncertain status of the two grants in the terms of amount and availability of the funds. The Town Board intends to apply the current balance of the BAN funds to the paying off of the BAN in its entirety when the BAN comes due.

Highway Equipment (p.6.):

The Town Board acknowledges that a Bond Resolution was not adopted as required. This was an oversight which should not have occurred for which there is no ready explanation. The Town Board had no intention of not complying with applicable requirements. It will use the incident as a reminder to avoid any further such occurrence.

The Town Board duly adopted an appropriate Bond Resolution at its November 9, 2017, regular meeting authorizing the issuance of a bond of \$80,000.

Sewer Construction (p.7.):

The Town disagrees with the assertion that the Town did not start or finish any sewer capital projects in 2015 – 2016. To the contrary, the Town undertook, in years 2015 and 2016, capital project work including a Town-wide remote-controlled camera inspection of all sewer lines in accordance with the Inflow and Infiltration Reduction Project of the Niagara County Sewer District No. 1. Inspection resulted in lining of defective sewer lines and repair and/or replacement of manholes. The Town expended \$52,150 in 2015 and \$29,760.74 in 2016 in the performance of this work. The work involved was beyond the expertise and manpower capacity of Town forces. The beneficial life of the work is anticipated to be 15 years and should qualify as capital projects.

See
Note 2
Page 12

Reserve Funds:

At its November 9, 2017, regular meeting of the Town Board, the Town Board authorized the changing of the Capital Project fund titles to:

Water Construction Reserve Fund (water line construction capital project funds)

Sewer Construction Reserve Fund (sewer construction capital project funds)

Highway Equipment Reserve Fund (highway equipment capital project funds)

Respectfully submitted

November 13, 2017

Town of Cambria Supervisor
Wright H. Ellis

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

As we indicate in the report, water line construction project costs were financed with residual cash on deposit in the capital projects fund from prior projects and interfund transfers totaling \$371,000. These transfers were in the adopted water district budgets, but the intended use of the cash was not described. Town officials told us these transfers were not part of the financing plan for this waterline construction project. Also, there was nothing in the minutes or the bond resolution to indicate that the Board ever approved any interfund advances to provide temporary project financing. As of December 31, 2016, cash of approximately \$794,000 remained in the waterline construction capital projects fund, mainly from the unexpended BAN proceeds.

Note 2

We revised the report based on the information provided.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We reviewed accounting records for the following capital projects: water construction, Town park comfort station, highway equipment and sewer construction. This included ledgers and receipt and disbursement records primarily from 2015 through the end of fieldwork. A cursory review of capital project activity from 2011 through 2014 was made when it became apparent that residual cash from prior projects appeared to remain available for subsequent capital projects.
- We reviewed Board minutes from 2015 through the end of fieldwork.
- We reviewed capital project bank statements for 2016 and 2017 up to the end of fieldwork.
- We reviewed bond resolutions of various debt issuances during the course of our audit period.
- We interviewed the Supervisor, bookkeeper, Town Clerk and Town Attorney concerning capital projects accounting procedures, official Board proceedings and bond resolutions.
- We reviewed the claim used to process the payment for the dump truck purchase.
- We reviewed adopted budgets for 2015 and 2016 for permanent and planned transfer activity to the various capital projects.

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.

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