



# Village of Livonia

## Board Oversight and Information Technology

### Report of Examination

Period Covered:

June 1, 2012 — April 15, 2014

2014M-221



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

January 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 Board of Trustees 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 Livonia, entitled Board Oversight and Information Technology. 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

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# EXECUTIVE SUMMARY

The Village of Livonia (Village) is located in the Town of Livonia in Livingston County and has a population of approximately 1,400. General fund appropriations for the 2013-14 fiscal year were \$835,790, funded primarily through real property taxes, sales tax and State aid. The Village is governed by a Board of Trustees (Board), which comprises an elected Mayor and four elected Trustees. 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 chief executive officer and the Clerk-Treasurer is the chief financial officer and serves as the Village's budget officer.

### **Scope and Objective**

The objective of our audit was to review Board oversight of financial operations and information technology (IT) controls for the period June 1, 2012 through April 15, 2014. We expanded the scope back to 2008-09 to review budgeting trends and fund balance. Subsequent to fieldwork, but prior to the release of our report, the Clerk-Treasurer submitted the 2013-14 annual update document. As a result, we updated our review of budgeting trends and fund balance for this additional information. Our audit addressed the following related questions:

- Did the Board properly oversee and manage financial operations to adequately secure Village assets?
- Are controls over IT adequately designed to ensure the Village's IT assets and computerized data are safeguarded?

### **Audit Results**

The Board is not properly overseeing the Village's financial operations, which has resulted in a weak control environment. The Board is not sufficiently segregating the financial duties of the Clerk-Treasurer or Deputy Clerk or implementing compensating controls to mitigate risks. The Board also is not implementing corrective action to weaknesses identified in the certified public accountant's report. As a result, there is an increased risk that errors or irregularities could occur without being detected and corrected. In addition, the Board does not receive or request sufficient financial information from the Clerk-Treasurer. As a result, the Board is unable to monitor the Village's financial operations or prepare realistic budgets, which has caused the Village's unreserved fund balances in the general and water funds to total \$350,000 and \$200,000, respectively, which are excessive. The Board also does not ensure the Clerk-Treasurer files the annual financial reports or tax cap calculations in a timely manner. As a result, the transparency of Village operations is compromised.

Controls over IT are not adequately designed to ensure the Village's IT assets and computerized data are safeguarded. For example, the Board has not established policies and procedures related to acceptable use, change reports/audit logs, breach notification or data backups. The Board also has not adopted a comprehensive disaster recovery plan or procedures for the sanitization of hard drives and other electronic media before disposing of them. Consequently, IT assets are at risk for unauthorized, inappropriate and wasteful use and the Village may encounter an interruption in services.

### **Comments of Village 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. 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 Livonia (Village) is located in the Town of Livonia in Livingston County and has a population of approximately 1,400. The Village provides residents with various services, including street maintenance, snow removal, street lighting, water and general government support. General fund appropriations for the 2013-14 fiscal year were \$835,790, funded primarily through real property taxes, sales tax and State aid.

The Village is governed by a Board of Trustees (Board), which comprises an elected Mayor and four elected Trustees. 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 chief executive officer and the Clerk-Treasurer is the chief financial officer. The Clerk-Treasurer serves as the Village's budget officer and is responsible for, among other things, custody of all Village moneys, maintaining the accounting records, preparing monthly and annual financial reports, processing payroll and signing payroll checks. The water billing and collections are performed by the Livingston County Water and Sewer Authority. The Deputy Clerk collects and deposits cash received and prepares disbursement checks. The Board did not reappoint the former Clerk-Treasurer for the 2013-14 fiscal year and his last day of service was March 31, 2013. A new Clerk-Treasurer was hired on a temporary basis on April 1, 2013 and was later appointed to the position on August 1, 2013. The Village does not have a designated information technology (IT) administrator.

## Objective

The objective of our audit was to review Board oversight of financial operations and IT controls. Our audit addressed the following related questions:

- Did the Board properly oversee and manage financial operations to adequately secure Village assets?
- Are controls over IT adequately designed to ensure the Village's IT assets and computerized data are safeguarded?

## Scope and Methodology

We examined Board oversight of financial operations and controls over IT for the period June 1, 2012 through April 15, 2014. We expanded the scope back to 2008-09 to review budgeting trends and fund balance. Subsequent to fieldwork, but prior to the release of our report, the Clerk-Treasurer submitted the 2013-14 annual update document. As a result, we updated our review of budgeting trends and

fund balance for this additional information. Our audit also disclosed areas in need of improvement concerning IT controls. Because of the sensitivity of this information, these vulnerabilities are not discussed in this report but have been communicated separately to Village officials so they could take corrective action.

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 C of this report.

**Comments of  
Village 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 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 New York State 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.

## Board Oversight

The Board is responsible for the oversight of the Village's financial operations, making sound financial decisions that are in the best interest of the Village and the taxpayers who fund its operations and safeguarding the Village's financial resources. The Board fulfills this responsibility, in part, by instituting internal controls over Village operations and implementing corrective action for any audit report findings. The Board must also ensure the Clerk-Treasurer provides it with sufficient financial information to monitor operations and prepare realistic budgets and that the Clerk-Treasurer files the Village's financial reports and tax cap calculations in a timely manner.

The Board is not properly overseeing the Village's financial operations, which has resulted in a weak control environment. The Board is not sufficiently segregating financial duties, implementing compensating controls to mitigate risks or implementing corrective action to weaknesses identified in a certified public accountant's report. In addition, the Board does not receive or require sufficient financial information from the Clerk-Treasurer to monitor the Village's financial operations or prepare realistic budgets. Even if the Board requested this important financial information, postings to the books and records are not up to date and the records do not provide complete financial information. Further, the Board does not ensure the Clerk-Treasurer files the Village's annual financial reports or tax cap calculations in a timely manner. As a result, there is an increased risk that errors or irregularities could occur without being detected, the unreserved fund balances in the Village's general and water funds are excessive and the transparency of Village operations is compromised.

### Control Environment

An important component of any system of internal controls is the control environment or "tone at the top." The Village's control environment is significantly influenced by the Board, particularly in relation to the Board's involvement and scrutiny of financial activities and operations. Also, it reflects management's attitude about internal controls and includes the integrity and competence of the entity's personnel, and management's philosophy and operating style. A fundamental part of setting a proper "tone at the top" requires the Board to demonstrate a concern for good management and to follow appropriate procedures, such as segregating financial duties and taking corrective action based on audit findings. When this foundation is not strong, the overall system of internal controls will not be as effective as it should be and taxpayers have little assurance that financial operations are properly controlled. The Board and Village officials must carry out their oversight responsibilities in conformance with

applicable laws, rules and guidelines that they expect their employees to follow.

The Board has not taken an active approach for overseeing financial operations, resulting in a weak control environment. Specifically, the Board did not segregate the financial duties of the Clerk-Treasurer and Deputy Clerk or oversee their work or establish policies and procedures for payroll processing. In addition, the Board did not promptly implement a corrective action plan to weaknesses identified in a certified public accountant's report. The deficiencies discussed throughout this report, combined with the lack of management oversight could result in errors or irregularities occurring without being detected and corrected in a timely manner.

Segregation of Duties — Proper internal controls ensure that financial duties are adequately segregated so that an individual does not control all phases of a transaction. By separating tasks and responsibilities, such as receiving, recording, depositing, disbursing and reconciling assets, management can reduce the risk that errors, waste or wrongful acts could occur and go undetected. If limited resources make it difficult to segregate incompatible duties, Village officials must implement compensating controls, such as designating a Board member to regularly review journal entries, bank reconciliations, bank statements and canceled checks and having the Mayor review and certify payroll.

The Board did not sufficiently segregate the financial duties in the Clerk-Treasurer's office or establish adequate compensating controls.

- The Clerk-Treasurer maintains the accounting records in a computerized accounting program with limited computer controls and little to no oversight.<sup>1</sup> For example, journal entries and bank reconciliations were not reviewed by someone other than the Clerk-Treasurer. As a result, the Clerk-Treasurer did not promptly complete bank reconciliations for the months of June and July 2013. Instead, he did not complete them until September 2013. In addition, receipts were not recorded in the financial software individually in chronological order as received. Instead, the Clerk-Treasurer entered total cash receipts at the end of the month, which significantly hindered oversight.
- The Clerk-Treasurer performs all aspects of the payroll process, including adding and deleting employees, entering

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<sup>1</sup> The limited oversight was provided by the Mayor who signed most non-payroll disbursement checks.

salary amounts, pay rates and hours worked and starting check numbers into the computerized accounting program; preparing, signing, and distributing the payroll checks, including his own; transferring funds to-and-from bank accounts and reconciling the payroll related bank accounts. In addition, the Board has not adopted written payroll policies or procedures for the Clerk-Treasurer to follow, established the minimum documentation to be maintained for payroll deductions and withholdings or defined the amount of contributions from employees for insurance coverage. In addition, the Mayor did not ensure that the proper rates of pay were paid or certify the payrolls from April through November 2013. We reviewed 67 payroll disbursements totaling \$73,701 and found that employees were properly paid.<sup>2</sup>

- The Deputy Clerk receives payments, prepares and makes bank deposits and also prepares all vouchers, abstracts and disbursement checks for signature. Due to these control weaknesses, we reviewed various financial records and performed tests of transactions to determine if cash receipts and disbursements were properly recorded and reported. We found all recorded receipts were deposited, but general fund deposits were not always made timely. We found that the tested payments were appropriate. We also found that there was no documented Board authorization for stipends paid to three employees totaling \$2,850, officials were aware of the payments but the approval was not formalized in the minutes. Furthermore, two were inappropriately paid through accounts payable, instead of payroll. Therefore, the Village did not withhold the appropriate payroll taxes or report these stipends as compensation on forms W-2 or 1099.

Lack of Corrective Action — Independent audits provide the Board with an independent review of the Village’s financial operations. All local governments that receive audit reports with recommendations should file a CAP with the Office of the State Comptroller (OSC). The plan should be prepared within 90 days of receipt of the audit report or letter. To the extent practicable, the Board must begin implementation of the corrective action plan as soon as possible and prior to the end of the next fiscal year.

The Board hired a certified public accountant (CPA) to assist the Board in evaluating the financial transactions of the Village by performing agreed upon procedures and reporting the results to the Board for

<sup>2</sup> This includes a \$9,350 lump sum payment to the Clerk-Treasurer for which we were unable to determine the accuracy of the payment because there was no supporting documentation for hours worked and paid at an hourly rate.

the period June 1, 2012 through March 31, 2013. The report was completed and provided to the Board on July 24, 2013 so the Board could review the report and start corrective action to address the weaknesses identified in the report. Specifically, the report identified a lack of policies, segregation of duties and review of the Clerk-Treasurer's work, Board review of financial reports including budget status reports, authorization for specific employee contributions for health and dental insurance, and weak IT controls.

The Board started corrective action in December 2013, when it began creating policies<sup>3</sup> and procedures. The Board identified nine policies in its corrective action plan, many of which were adopted between January and March 2014. However, as of April 15, 2014, the Board had still not developed a plan to address all of the findings in the CPA's report. When we inquired about corrective action for the other report findings, such as those regarding insufficient controls and oversight, the Mayor stated that the Board planned no other corrective action beyond the policies adopted. Without addressing these other findings, many of which are discussed throughout this report, the Board cannot be assured that Village assets are properly safeguarded. The Board's failure to take adequate corrective action for all report recommendations perpetuated the weak control environment and diminished its ability to manage the Village's financial operations. Further, the Board's inactivity sets a poor tone at the top.

## **Financial Operations**

The Board needs complete, accurate and current financial information to effectively monitor the Village's financial operations and develop realistic budgets. In preparing the budget, the Board is responsible for estimating what the Village will receive and expend using the most reliable information at the time of budget formation.

The Board is not properly overseeing the Village's financial operations. The Board's ability to carry out its fiduciary responsibilities was severely limited because it did not receive or request sufficient financial information on a monthly basis from the Clerk-Treasurer. Without detailed interim financial reports, the Board is unable to monitor the adopted budget and ensure that the Village's financial resources are spent appropriately. In addition, the Board's budget process is limited. Because the Board failed to receive budgetary status reports, the Board did not consider prior years' actual amounts when estimating expenditures. As a result, the Board has repeatedly adopted unrealistic budgets for the general and water funds and currently maintains excessive fund balances in both of those funds. Finally, the transparency of Village operations is compromised

<sup>3</sup> Policies for credit cards, fraud (whistle blower), travel and meals, cell phones, capitalization, online banking, ethics, claims auditing process and procurement.

because the Village's annual financial report, also known as the annual update document (AUD) and property tax cap calculations are not filed in a timely manner.

Financial Reports — The Clerk-Treasurer, as chief fiscal officer, is responsible for providing monthly financial reports to the Board that include budget-to-actual results for revenues and expenditures, cash balances and cash flow projections by fund. The Clerk-Treasurer is also responsible for filing the Village's AUD with the OSC within 60 days following the close of the fiscal year. The AUD is an important document that allows management and the public to monitor and assess the Village's financial operations and financial condition. The Clerk-Treasurer must also prepare the annual property tax cap filing and submit the calculation to OSC prior to budget adoption.

The current Clerk-Treasurer did not provide any written financial reports to the Board from April through December 2013. It was not until we requested a budget-to-actual report in January 2014 that the current Clerk-Treasurer provided a copy of the report to the Board. Further, the current Clerk-Treasurer did not attend monthly Board meetings until after the beginning of our audit. The Mayor stated that the previous Clerk-Treasurer also did not provide regular monthly financial reports, but did provide a budget-to-actual report during budget preparation. Additionally, the Board did not ensure that the former or current Clerk-Treasurer filed the AUD in a timely manner. The 2011-12 AUD was due on August 1, 2012, but was not filed until March 4, 2013,<sup>4</sup> 215 days late. The 2012-13 report was filed on August 20, 2013, 19 days late. Subsequent to our fieldwork, the Clerk-Treasurer filed the 2013-14 AUD on October 6, 2014, which was 66 days late. However, the current Clerk-Treasurer did not file the 2013-14 or 2014-15 property tax cap computation with OSC as required. Despite multiple attempts by OSC staff while onsite during fieldwork to assist the current Clerk-Treasurer in completing these filings, neither were filed until July 3, 2014.

Budgeting — Board members must ensure there is an adequate process to prepare, adopt and amend budgets based on reasonably accurate assessments of resources that can be used to fund appropriations. When estimating budgeted revenues and appropriations, the Board should use historical data, such as prior years' actual results of operations, to guide it in determining whether revenues and expenditures are reasonable. However, given the lack of current financial information, the Board did not have complete current year information to use in developing the budget. The Board may retain a reasonable portion of fund balance to be used as a funding source in the event of unforeseen circumstances. The Board may then appropriate a portion of fund

<sup>4</sup> Certification date listed on the document

balance as a revenue source in the ensuing year's budget to reduce the tax levy. During the year, the Board must monitor the budget and amend it as necessary. In certain instances, it may become necessary for the Board to transfer budget funds to cover the cost of specific expenditures that are expected to exceed their budgeted appropriations. The Clerk-Treasurer, as Budget Officer, should propose, and the Board should approve, budget modifications prior to the occurrence of over-expenditures.

The Board developed budgets that overestimated expenditures from 2010-11 through 2012-13 because the Board did not consider the results of operations for the previous year when budgeting for the following year. Generally, the variances between budgeted and actual revenues were more reasonable. In addition, the Board did not monitor the budget during each fiscal year or amend it as necessary because it did not receive or request financial information on a monthly basis. Instead, the Board inappropriately allowed the Clerk-Treasurer to make budget transfers as needed without prior Board approval.

Figures 1 and 2 illustrate the significant budget variances for expenditures in the general and water funds over the last four years for which information was available.<sup>5</sup>

<b>Figure 1: Total General Fund Expenditures</b>			
	<b>Budget</b>	<b>Actual</b>	<b>(Over)/Under Budget</b>
2010-11	\$855,680	\$732,595	\$123,085
2011-12	\$863,715	\$788,267 <sup>a</sup>	\$75,448
2012-13	\$836,843 <sup>b</sup>	\$742,069	\$94,774
2013-14	\$835,790	\$937,743 <sup>c</sup>	(\$101,953)

<sup>a</sup> The Village's AUD reported \$941,068; however, we found that the Village included \$152,801 in unbudgeted capital project expenditures in the general fund instead of recording them in the capital projects fund. Therefore, we have removed these expenditures to discuss the overall budgeting detriments of the general fund operating budget.

<sup>b</sup> The Village budget totaled \$986,843; however, this included \$150,000 for a transfer to the capital project fund. Therefore, we excluded these budgeted appropriations.

<sup>c</sup> The variance is primarily due to a large equipment expenditure totaling \$119,500 that exceeded the adopted budget for the equipment.

<b>Figure 2: Total Water Fund Expenditures</b>			
	<b>Budget</b>	<b>Actual</b>	<b>(Over)/Under Budget</b>
2010-11	\$153,000	\$115,712	\$37,288
2011-12	\$152,700	\$123,241 <sup>a</sup>	\$29,459
2012-13	\$159,000	\$130,737	\$28,263
2013-14	No Budget Adopted	\$120,583	(\$120,583)

<sup>a</sup> The Village's AUD reported a total of \$276,042; we have excluded interfund transfers to the general fund of \$152,801 made to provide cash for capital project expenditures that should have been recorded in the capital projects fund.

<sup>5</sup> The 2013-14 AUD was filed on October 6, 2014 after the completion of our fieldwork. We included the reported information in our figures, but did not audit the year-end results.

The Village overestimated general and water fund expenditures in each of the three years. We found that the budget variances were generally spread throughout the individual appropriation line items and that the variances between budgeted and actual revenues were more reasonable than the expenditure variances. In the general fund, the revenue variances also contributed to the operating surplus. Because of the operating surpluses, the Village's unreserved fund balance was \$349,656 at the end of 2012-13, which was 42 percent of the ensuing year's appropriations (\$835,790). The Board continued this unrealistic budgeting strategy when developing its 2013-14 budget as estimated revenues remained consistent with prior year amounts and appropriations were only slightly reduced. In the 2014-15 budget, the Board continued the pattern of over budgeting for appropriations.

In the water fund, the total three-year revenue variance offset the additional expenditures in 2011-12 and fund balance totaled \$204,615 at the end of 2012-13. Although Village officials stated that a budget was not adopted for 2012-13 and 2013-14, the Board minutes indicated a budget was adopted for 2012-13 and found in the records. The Board did adopt a 2014-15 water fund budget.

Continued reliance on poor budgeting practices could result in the accumulation of more excessive funds or create financial difficulties for the Village. The Board could make its budgets much more structured, reliable and transparent to taxpayers by including more accurate revenue and expenditure estimates. The Board is unable to develop and adopt accurate budgets and effectively monitor and manage Village financial operations because it does not request and review timely adequate financial reports.

## Recommendations

The Board should:

1. Take immediate action to strengthen the control environment and establish a system to manage financial operations.
2. Require the Clerk-Treasurer to provide current budget-to-actual comparisons each month for its use in monitoring revenues expenditures and reports for cash balances and cash flow.
3. Improve internal controls in the Clerk-Treasurer's office by segregating procedures where possible and establishing mitigating controls where duties cannot be segregated.
4. Adopt policies and procedures for payroll.

5. Ensure all stipends are authorized and reported as additional compensation through payroll. Approvals should be documented in the Board minutes on at least an annual basis.
6. Initiate timely corrective action to audit report findings and file a CAP with OSC.
7. Ensure that the Clerk-Treasurer files AUDs and property tax cap calculations with OSC within the prescribed statutory period.
8. Develop and adopt budgets with realistic estimates of revenues and expenditures.
9. Authorize all budgetary amendments prior to incurring expenditures in excess of available appropriations.

The Clerk-Treasurer should:

10. Perform bank reconciliations every month that are reviewed by someone who is independent of the cash receipt and disbursement functions.
11. Record cash receipts individually, in chronologic order.

The Mayor should:

12. Ensure that proper rates of pay are paid and certify payrolls prior to disbursement of Village funds.

## Information Technology

The Village relies on its information technology (IT) system to perform a variety of tasks, including email communication, Internet access, storing data, recording financial information and reporting to State and Federal agencies. Therefore, the Village's IT system and the data it holds are valuable resources. The Village's use of IT presents a number of internal controls risks, such as unauthorized access, which can increase the risk that computerized equipment could be damaged or data misused, lost or corrupted without detection. Even small disruptions in IT systems can require extensive time and effort to evaluate and repair. Village officials are responsible for designing and implementing policies and procedures to protect these assets from unauthorized, inappropriate, and wasteful use. This is especially important because of the increasing use of viruses, malware and other malicious methods intended to harm data resources and gain unauthorized access to valuable data.

The Village does not have appropriate IT policies and procedures related to acceptable use, change reports/audit logs, breach notification or data backups. The Board also has not adopted a comprehensive disaster recovery plan or procedures for the sanitization of electronic media before disposing of them. Consequently, IT assets are at risk for unauthorized, inappropriate and wasteful use and the Village may encounter an interruption in services.

### Acceptable Use

Good internal controls over IT include a policy that defines the Board's intended use of equipment and computing systems, and security measures to protect the Village's resources and confidential information. The policy should address, but not necessarily be limited to, the acceptable use of the Internet, email, password security, access to and use of confidential information, and the installation and maintenance of software on Village computers. It is important that the policy include a provision for enforcement and that the system users provide acknowledgements that they are aware of and will abide by the policy.

The Board has not established an acceptable use policy to ensure the security of the Village's IT system. Without comprehensive policies that explicitly convey the appropriate use of the Village's electronic equipment, Village officials cannot be assured that users are aware of their responsibilities and there will be no consistent standards for which users are held accountable. While comprehensive computer use policies do not alone guarantee the safety of the Village's electronic information, the lack of an acceptable use policy

increases the risk of inappropriate computer use (either intentional or accidental) which could potentially expose the Village to malicious attacks or compromise systems and data, including key financial and confidential information.

## **System Reports**

Audit logs and change reports maintain a record of activity by system or application process, as well as changes to the financial system. Audit logs provide information, such as the identity of each person who has accessed the system, the time and date of the access, what activity occurred, and the time and date of logoff. Change reports provide a list of changes made to the financial application (e.g., vendor or payroll name and address changes). It is important that Village officials review these reports to monitor user activity and changes to the data, to provide a mechanism for individual accountability, reconstructing events and problem monitoring.

We found that there is no review of audit logs or change reports from the financial software. Although the Clerk-Treasurer stated that the financial software has the capability to prepare an activity change report, no one has printed or reviewed the report. Therefore, the Deputy Clerk can add, delete and modify vendor records and the Clerk-Treasurer can make adjustments to pay rates without a review of the changes made in the system. Without periodically reviewing audit logs and change reports, Village officials reduce their ability to detect and properly address unauthorized activities.

## **Breach Notification**

An individual's privacy could be severely affected if security is breached and the individual's data or financial or confidential business information is improperly disclosed. New York State Technology Law requires local governments to establish an information breach notification policy. The policy must detail how the Village would notify State residents whose private information was, or is reasonably believed to have been, acquired by a person without a valid authorization. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

The Board has not adopted a breach notification policy. By failing to adopt an information breach notification policy, in the event that private information is compromised, Village officials and employees may not understand or be prepared to fulfill their legal obligation to notify affected individuals.

## **Data Backup**

Village computers contain a considerable amount of private and valuable data related to employees and vendors. Accordingly, the Village should routinely back up (make a duplicate copy of) data stored on computers to enable the data to be restored in the event of a loss. Further, back-up data must be encrypted and kept at an off-site location in the event of a disaster at the computer location site. It is also important that the Village routinely test the backups to ensure data integrity. Finally, the Board needs to formally establish written policies and procedures addressing data backup, including the frequency of creating and testing back-up data and guidance for encrypting data, storing backups to protect them from fire and water damage and protecting backups from theft or data corruption.

The Board has not adopted a data backup policy and Village officials have not established back-up procedures. As a result, the Clerk-Treasurer does not backup the financial records. Although the Clerk-Treasurer stated he was aware that the data should be backed up and stored off-site, this had still not been completed by the end of our fieldwork. By not developing a written policy or procedures, Village officials have not sufficiently addressed the Village's IT risks or established procedures for data backup and restoration. If the Village system was compromised, the Village could lose essential information that may not be recoverable or could incur expenses for restoration of systems or for repair or replacement of equipment.

## **Disaster Recovery Plan**

A disaster recovery plan is intended to identify and describe how Village officials will deal with potential disasters. Such disasters may include any sudden, unplanned catastrophic event (e.g., fire, computer virus or inadvertent employee action) that compromises the availability or integrity of the IT system and data. Contingency planning is used to avert or minimize the damage that disasters would cause to operations. Such planning consists of the precautions to be taken to minimize the effects of a disaster so officials and responsible staff will be able to maintain or quickly resume day-to-day operations. Typically, a disaster recovery plan involves an analysis of business processes and continuity needs, including a significant focus on disaster prevention. The plan should also address the roles of key individuals, and be distributed to all responsible parties, periodically tested, and updated as needed.

The Board has not adopted a comprehensive disaster recovery plan to address potential disasters. The Village has an old, outdated and inadequate disaster plan prepared by Livingston County. The plan does not specifically address IT, does not include details on the records and data that are essential to preserve during a disaster and does not designate specific alternate work locations. Consequently, in the event of a disaster, Village personnel have no guidelines or plan

to follow to help minimize or prevent the loss of equipment and data or to appropriately recover data. Without a comprehensive disaster recovery plan, the Village could lose important financial data and suffer a serious interruption in Village operations.

## **Disposal of Computer Equipment**

Sensitive and confidential information and software must be cleared from computer hard drives, disks, thumb drives and other equipment and media before those items are disposed of or transferred to another use. Organizations must have a plan that clearly describes the organization's security management program and the policies and procedures that support it, including procedures for the secure disposal of all equipment containing electronic information.

The Board has not adopted a policy or procedures for the sanitization of hard drives and other electronic media before disposing of them. If sensitive and confidential information is not fully removed, it may be recovered and inappropriately used or disclosed by individuals with access to the discarded equipment and media.

## **Recommendations**

The Board should adopt IT policies and procedures related to:

13. IT access and acceptable computer use by Village officials and employees who access the system.
14. The routine generation and review of the financial software audit logs and change reports to monitor user activity.
15. Information breach notification.
16. Data backup.
17. Ensuring that data is encrypted, backed up and kept at a secure off-site location. They should also ensure that backups are periodically tested to ensure the data can be restored.
18. Disaster recovery to document the steps to be taken in the event of an emergency.
19. Hard drives and other electronic media to ensure they are properly sanitized before they are disposed of.

## **APPENDIX A**

### **RESPONSE FROM VILLAGE OFFICIALS**

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

The Village's response letter refers to an Appendix, page numbers and footnotes that appeared in a draft version of this report. The Appendix letters, page numbers and footnotes have changed during the formatting of this report.

MAYOR  
Calvin A. Lathan

CLERK-TREASURER  
Thomas Preston

DEPUTY CLERK  
Rhonda J. Rooser



BOARD OF TRUSTEES

Robert C. Leader  
Christopher J. Genthner  
William S. Kurtz  
Ralph C. Parker

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Edward V. Grant Jr., Chief Examiner  
Rochester Regional Office  
The Powers Building  
16 West Main Street  
Rochester, NY  
14614-1608

December 10, 2014

Dear Mr. Grant,

Village officials in Livonia have received and reviewed the audit findings for the Village of Livonia covering the period June 1, 2012-April 15, 2014. We appreciate all of the hard work and time put in by the auditor(s). Though we began to modify many of our policies prior to receiving the draft audit in November, we are confident that our CAP will further address your office's recommendations for improvements to our fiscal and technology policies. Please be assured that all employees of the Village look forward to making positive changes that will help us both continue and enhance our abilities to be responsible fiscal stewards for the Village of Livonia.

Per the NYS Comptroller's website your agency "audits State and local governments to ensure that they use taxpayer money effectively and efficiently to promote the common good." Further, your website identifies one of your goals as being that

"every audit have a positive result and that audit findings and recommendations present local officials with the opportunity to take positive action and to document their efforts to improve operations. When local officials promptly focus on findings and recommendations contained in audit reports, and put into writing their response to these reports, audits will serve as the effective management tools they should be."

While we are confident that this audit will lead to positive results, the process has been anything but positive, and at times very frustrating. There are many examples but in the interest of space, we provide two. We believe that the timing of the audit, which occurred in the midst of our transition to a new clerk-treasurer, played a role in several of your findings. Your office failed to communicate with Trustees, in spite of your assertion in Appendix B that you interviewed Village officials. Both of these factors contributed to an audit that misrepresents several aspects of Village operations and paints a picture of Village finances and budgeting practices that we regard as inaccurate and inflammatory. For example, we believe that certain distortions surrounding the creation of the Village's Annual Budget could have been avoided if Village trustees had been asked by auditors to produce the paperwork provided by the Clerk-Treasurer and used during the budget process. As the Trustees are responsible for approving the budget, the auditor should have included them as part of any investigation and discussion surrounding this process.

In reading other municipal audits, we know that your response to this rebuke (your response to our response) is likely to draw more attention to our deficiencies in following textbook accounting procedures. Please know that we may be a small village with a small budget but we take our responsibilities very seriously. We have always worked hard to use taxpayer money effectively and efficiently to promote the common good and we will continue to do so.

On the following pages, you will find a list of specific Responses to the initial draft audit as well as the modified draft audit.

Response to the Comptroller’s First Draft Audit (10/28/14)  
&  
Response to the Second Amended Draft Audit (11/18/14)

Page 4, 1<sup>st</sup> paragraph: “General fund appropriations for the 2013-14 fiscal year were \$835,780, funded primarily through real property taxes, sales taxes and state aid.” Response: It should be noted that funds also occur from the Bowen Trusts as well as Water Fund Revenue.

Page 6, 2<sup>nd</sup> paragraph: “As a result, there is an increased risk that errors or irregularities could occur without being detected, the unreserved fund balances in the Village’s general and water Funds are excessive and the transparency of Village operations is compromised.” Response: It should be clear from our responses to Figure 1 and Figure 2 on pages 10 and 11, that the General Fund balances varied ever so slightly. At the same time, the Water Fund balance began to grow and under careful consideration, we intended that these resources would be used in both 2006 and 2012 to prepay a variety of professional expenses prior to two (2) major street projects. In both instances, the BAN and then the BOND were reduced because of these prepaid expenses.

See Note 2 Page 28
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Page 7, 3<sup>rd</sup> paragraph: “The Clerk-Treasurer maintains the accounting records in a computerized accounting program with limited computer controls and little or no oversight. (There is a footnote.... “The Mayor signed most non-payroll disbursement checks.”) Response: During the review of the bills that have been presented at the Village Board meeting, vouchers are reviewed by a member of the Board, signed and made available for all of the Board members during voucher/payment discussions. Only after the disbursement of funds has been approved, will the appropriate checks be signed. According to our organizational policy, Clerk-Treasurer (Tom Preston), Mayor (Cal Lathan) or Deputy Mayor (Chris Genthner) are approved to sign these disbursements

See Note 3 Page 28
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Page 7, footnote 2: “We also found that there was no documented Board authorization for stipends paid to three employees totaling \$2850. Officials were aware of the payments but the approval was not formalized in the minutes.”

**Response:** We are familiar with the three stipends that were paid and in each instance they were paid by voucher, with Board review and approval

See  
Note 4  
Page 28

**Page 7, last paragraph:** “We reviewed 67 payroll disbursements totaling \$73,701 and found that employees were properly paid.” (There is a footnote.... “This includes a \$9,350 lump sum payment to Tom Preston for which we were unable to determine the accuracy of the payment because there was no supporting documentation for hours worked and paid on an hourly basis.”) **Response:** As Tom Preston assumed the responsibility as the Clerk-Treasurer, the Board had agreed to an hourly rate of \$50/hour during the transition period. By State law, we had to appoint a Clerk-Treasurer, or the previous Clerk-Treasurer would have continued. The Board unanimously agreed that Tom would provide us assistance in this transition and hopefully assume the position on a permanent basis. The agreed compensation was \$50/hour. In the past, when we have hired attorneys to provide special services or engineers to provide special services or surveyors to provide special services, we have agreed on an hourly rate and have been billed by them. We treated Tom the same way as those other professional providers. If the criticism is that the Board was not informed regarding the number of hours he was working, that is not true. On a regular basis, Tom would inform me of the number of hours he had worked and I would share that with the Board. It is clear that he worked in excess of 180 hours in this transition and billed us for the agreed amount. I have always had daily written records of these hours. Tom used the large calendar that sat on his desk to record his time in the office.

See  
Note 5  
Page 28

**Page 9, 3<sup>rd</sup> paragraph:** “Further, the current Clerk-Treasurer did not attend monthly Board meetings until after the beginning of our audit.” **Response:** This could be coincidental, as our Clerk-Treasurer is always in attendance when we are going to discuss budget/financial issues.

**Page 10, footnote c:** “The variance is primarily due to a large equipment expenditure totaling \$119, 500 that exceeded the adopted budget for the equipment.”

**Response:** The Board adopted a resolution to amend the Budget by \$110,000, which represents the balance of the equipment reserve. The result should be an under expenditure of \$9,047.

**Page 10: Figure 1 and Figure 2: Response:** It is clear that figure 1 clearly presents a distorted view of our Fund Balance. I reviewed General Fund budgets between 2002 and 2007 and I found that in the General Fund budgets varied +/- between 0.1% to 3.5%. These budgets and these numbers clearly reflect budgets that were actual and budget nearly matched. In figure 1, it is clear that those over numbers reflected accumulated money from our Water Fund. During the years prior to SIP 2012, the Clerk-Treasurer and the Village Board discussed ways that we could pre-pay many of our professional expenses that would be related to this street project. Using Water Fund and General Fund balances, attorneys, engineers and other professional providers were paid prior to the BAN and finally the BOND. By pre-paying these expenses, we borrowed significantly less money and saved significant interest in repaying this debt. We dealt with the Clerk-Treasurer (Mike Lawton), NYCOM (John Mancini) and our Village Attorney (Peter Skivington), to help guide us through this process.

See  
Note 6  
Page 28

**Page 10 & 11, Figure 1 and Figure 2: Response:** We believe that both Figure 1 and Figure 2 do not clearly represent our budgeting process. The accompanying chart clearly demonstrates that between 2002-2007 that the General Fund budget and the actual spending varied by only a few percent. During the same time period the Water Fund balance was increasing in preparation for SIP 2006. The Budget deliberations, regarding water, were centered around the concept of pre-paying appropriate professional expenses prior to SIP 2006.

See Note 6 Page 28
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**GENERAL FUND**

<b>%</b>	<b>YEAR</b>	<b>BUDGET</b>	<b>ACTUAL</b>	<b>DIFFERENCE</b>
-0.5%	2002-03	630,745	634,095	-3,350
+0.1%	2003-04	712,200	712,958	+758
+ 3%	2004-05	806,887	830,948	+24,061
+0.4%	2005-06	806,666	809,508	+2,842
+ 3.5%	2006-07	777,535	750,108	+27,427

**2007-08 Budget**

<b><u>5/31/xx</u></b>	<b><u>Water Fund Balance</u></b>	
2000	183,634	{This was part of several “work-ing documents” as we prepared the 2007-08 Budget.}
2001	245,057 (includes equipment reserve)	
2002	214,338	
2003	310,462	
2004	391,072 (rec’d prior years CHIPS)	
2005	454,118 (preparing for SIP 2006)	
2006	370,884 (purchased new dump truck)	
2007	??????	

**WATER CONTRACT – AUTHORITY/TOWN**

**Year**

1995 – 2009

\*During this 15-year period, we paid for water, % of electricity, “\$500 for Clerk fees” and any repairs to our distribution system.

See Note 6 Page 28
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**% of O&M**

2010

20%

2011

40%

\*This represents our share of O&M plus the other fees.

2012

60%

2013

80%

2014

100%

We are now a full partner and pay our share of the Authority Water Budget based on water consumption.

The above chart clearly demonstrates a similar process. We were accruing Water Fund balance in preparation for SIP 2006 and 2012. During the period from 1995-2009, our water expenses were reduced because of the contract with the Authority. The Water Fund balance was increasing.

On November 16, 2014, in the Rochester Democrat & Chronicle, from the author James Goodman...”Rather state law only says that municipalities have the authority to maintain a “reasonable amount” of unappropriated funds as a surplus.” And, “Striking the right balance is important for local officials to do, and that should be based on their trends and their own experiences,” said State Comptroller Thomas DiNapoli. In addition, “He added, it needs to be tied to a long- term financial plan of the town so that the taxpayers aren’t whipsawed with ups and downs” of the tax rate. He continued with... “As a rule of thumb, said State Comptroller DiNapoli, is surplus funds should not be used for recurring expenses, which over time would drain a municipality of those funds.”

It should now be clear that our use of Water Fund revenue to prepay major construction bills is appropriate according to the State Comptroller’s comments. We did not use Water Fund revenue to pay recurring expenses but expenses related to major construction projects.

Page 10-11: “In the General Fund, the revenue variances also contributed to the operating surplus. Because of the operating surpluses, the Village’s unreserved Fund Balance increased to \$349,656 at the end of 2012-13, which was 42% of the ensuing year’s appropriations (\$835,790). The Board continued this unrealistic budgeting strategy when developing its 2013-14 Budget as estimated revenues remained constant with prior year amounts and appropriations were only slightly reduced. In the 2014 Budget, the Board continued the pattern of over budgeting for appropriations.” Response: Where the budget was \$835,790, the actual expenditures were \$818,241. We really don’t consider this over budgeting. For the year 2014-15, these figures were also all adjusted and we figure we are very close to our actual budget.

Page 11, first paragraph, last sentence: “In the 2014-2015 Budget, the Board continued the pattern of over budgeting for appropriations. Response: The Budget did not inflate appropriations, in fact, the levy was raised, by Local Law, in order to balance the Budget. All efforts were made to not exceed the tax cap.

Page 11: Item 8: “Ensure that the Clerk-Treasurer files AUD’s and Property Taxes cap calculations with OSC within the prescribed statutory period.” Response: This will be done in the future now that the Clerk-Treasurer has established contact with [REDACTED] at Office of OSC in Albany. All previous attempts with the Regional office yielded no help or no returned calls, which were requested. [REDACTED] [REDACTED] and [REDACTED] were contacted but never did return calls.

See  
Note 7  
Page 28

Page 11: Item 9: “Develop and adopt budgets with realistic estimates of revenues and expenditures.” Response: We want this item deleted since we are already in that mode, creating budgets that reflect both revenue and expenditures.

See  
Note 8  
Page 29

Respectfully Submitted,

Calvin Lathan, Mayor

Trustee William Kurtz

Christopher Genthner, Deputy Mayor

Trustee Ralph Parker

Thomas Preston, Clerk-Treasurer

Trustee Robert Leader

## APPENDIX B

### OSC COMMENTS ON THE VILLAGES' RESPONSE

#### Note 1

Our audit commenced on November 4, 2013, which was seven months after the new Clerk-Treasurer's employment started. During our audit, OSC staff emailed all Trustees questions and had communication with three of the four Trustees via email and phone calls.

#### Note 2

The development and adoption of budgets based on realistic estimates of revenues and expenditures, along with the inclusion of provisions for the funding of reserves to finance future costs is the more transparent approach to disclose the Board's intent to taxpayers. Further, the adoption of multiyear financial plans ensures that moneys accumulated in operating funds are used for appropriate and authorized purposes.

#### Note 3

We amended our draft report to indicate that limited oversight was provided by the Mayor who signed most non-payroll disbursement checks.

#### Note 4

Our draft report noted that officials were aware of these payments, but because two of the stipends were not made through payroll, the Village did not withhold the appropriate payroll taxes or report these stipends as compensation.

#### Note 5

Although we requested any records to support the number of hours worked by the Clerk-Treasurer on several occasions, none were provided. Furthermore, the Mayor stated to OSC staff at the exit conference on November 7, 2014 that he had supporting documentation, but would not provide it to us for review.

#### Note 6

The information provided in the Village's response for the years 2002 to 2007 is outside our audit period and does not reflect the practices and results during our audit period.

#### Note 7

While on site, OSC staff attempted to assist the Clerk-Treasurer with property tax cap calculations on numerous occasions. However, because this was not a priority for the Clerk-Treasurer, our assistance was not accepted.

Note 8

The Board has not adopted budgets based on realistic estimates of revenues and expenditures over the last four years and the 2014–15 budget continued the practice of over budgeting appropriations.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls and financial management practices put in place by officials to safeguard Village assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: Board oversight, financial management, cash receipts and disbursements, purchasing, payroll and information technology. During the initial assessment, we interviewed appropriate Village officials, performed limited tests of transactions and reviewed pertinent documents, such as Village policies and procedures, Board minutes and financial records and reports.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected Board oversight and information technology for further audit testing.

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

- We interviewed Village officials and employees to obtain an understanding of Village processes, operations and internal controls.
- We reviewed Village policies, Board minutes, budgets, financial records and reports, personnel files, and the CPA report and corrective action for the period June 1, 2012 through March 31, 2013.
- We reviewed June 2012 and September 2013 journal entries to ensure they were adequately supported, properly recorded and were for appropriate Village purposes.
- For the following tests, we selected samples from both the period of the former Clerk-Treasurer and the current Clerk-Treasurer:
  - o We reviewed bank reconciliations for December 2012 through February 2013 and June 2013 through September 2013 to determine if they were adequately performed and if they were independently reviewed. We randomly selected three months for the previous Clerk-Treasurer and the four months of the new fiscal year 2013-14 for the current Clerk-Treasurer.
  - o We selected four months of general and water fund receipts (October 2012, November 2012, June 2013 and July 2013) and traced them to the bank statements and the receipts ledger to determine if receipts were properly deposited and recorded. We also compared check dates on the copies of checks deposited with the bank statement deposit dates to calculate the timeliness of deposits.
  - o We randomly selected 50 non-payroll disbursements (25 each from June 2012 through May 2013 and beginning June 2013 using a random electronic spreadsheet formula). We

compared the Village's bank statements and canceled check images, financial records, invoices/claims and abstracts to determine if disbursements were properly recorded. We also determined if all claims were presented to, audited and approved by the Board, and if the claims were properly supported.

- o We selected four pay periods (including a quarterly payroll) in each period and reviewed payments to the 12 Village employees for September 2012, October 2012, October 2013 and December 2013. We reviewed 67 payroll disbursements totaling \$73,701. We recalculated these employees' gross wages to determine whether the amounts paid were properly supported and in accordance with Board-approved rates and whether the withholdings deducted were accurate and adequately supported.
- We reviewed the 2012 and 2013 payroll withholdings to determine if the deductions were properly paid to the respective third parties. We also compared W-2s (wage and tax statements) to payroll records to determine if the W-2s were accurate.
- We reviewed the seven payroll disbursements made to the current Clerk-Treasurer from September 2013 through December 2013 to determine if the payments were authorized, accurate and properly supported.
- We obtained and analyzed computerized data from June 1, 2012 through November 4, 2013 using data extraction and analysis software to identify and review unusual transactions.
- We compared the 2012-13 AUDs with the financial records to determine the accuracy of the report and reviewed the filing dates of the 2011-12, 2012-13 and 2013-14 reports to OSC to compare them with the due dates to determine the amount of days late the reports were filed.
- We inquired about the Village's tax cap calculation and filing status and calculated the Village's tax cap limitation to determine if the Village stayed within the limit for 2013-14.
- We analyzed fund balance for the period 2008-09 through 2012-13. We also compared budgeted revenues and expenditures to actual operating results for 2008-09 through 2013-14.
- We reviewed total annual revenues and expenditures to determine the operating deficits or surpluses for each fund. We also reviewed budgets for 2008-09 through 2013-14 to determine the amount of fund balance that were appropriated for each fund each year. We compared the annual operating surpluses or deficits to the amount of appropriated fund balance for each year, and calculated the average amount of appropriated fund balance that was not used.
- We reviewed individual line item budget-to-actual results for 2012-13 and 2013-14 (through March 26, 2014).

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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