



Village of Ellicottville

Internal Controls Over Water and Justice Court Operations

Report of Examination

Period Covered:

June 1, 2009 — May 20, 2011

2011M-153



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2011

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 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 Ellicottville, entitled Internal Controls Over Water and Justice Court Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

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

Respectfully submitted,

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



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Village of Ellicottville (Village) is located in the Town of Ellicottville, Cattaraugus County in western New York State and has a population of approximately 500 residents, covering one square mile. The Village is governed by an elected Board of Trustees (Board), which consists of a mayor, and four trustees. The Board is responsible for the general management and control of the Village's financial affairs and has the authority to levy taxes on real property located within the Village, set water user charges and issue debt. The 2010-11 fiscal year budget totaled approximately \$785,000 for the general fund and \$140,000 for the water fund.

The Village operates its Justice Court (Court) with one elected Justice and one appointed acting Justice who are responsible for Court operations. The majority of the Court's activity is handled by the elected Justice. The Justices have one court clerk.

The Village provides water and sewer services to both village residential and commercial customers, as well as to the Town. Sewer billings are based on water usage.

Scope and Objective

The objective of our audit was to assess the internal controls over the Village's Court, water billings and water accountability for the period June 1, 2009 to May 20, 2011. To further review Court financial activity, we expanded our scope back to June 1, 2008. Our audit addressed the following related questions:

- Does the Village adequately monitor and reconcile the amount of water produced to the amount billed customers to properly account for water?
- Are internal controls over water billings appropriately designed and operating effectively to ensure customer billings are accurate?
- Are internal controls appropriately designed and operating effectively to ensure the proper accounting and reporting of the Court's financial transactions?

Audit Results

We found that the Village's system has water loss of approximately 84 percent, which is significantly higher than the 10 percent goal set by the Federal Environmental Protection Agency. Village officials

were not aware of the extent of the Village's water loss because they do not monitor the amount of water produced versus the amount billed to customers. The lost water represents \$624,000 in lost revenue annually.

Further, we found that the Village lacked adequate internal controls over billing for water and sewer services. We found that the Board had not authorized the current billing rates, and that billing staff made unauthorized adjustments, calculated billings incorrectly, and billed for usage that was not supported by actual meter readings. Our test of 20 randomly selected customer accounts found that 5 accounts (25 percent) contained billing errors. When we tested a second sample of 20 customer accounts that were at higher risk of exceptions, we found that all 20 accounts contained billing errors. These errors occurred because the Board has not adopted any policies or procedures to guide staff in performing water billing activities, or provided for a review of bills to ensure their accuracy. As a result, the Village has over- or underbilled certain customers for water and sewer services.

We also found that internal controls over Court operations were not designed appropriately or operating effectively to properly account for financial transactions of the Court. The elected Justice did not ensure that the former court clerk prepared monthly accountability analyses. Therefore, bail monies from as long ago as 1992 had not been investigated and, if exonerated, remitted to the individual to whom they were due. We also found that the former court clerk did not deposit cash receipts timely and intact,¹ or prepare and submit monthly reports to the Justice Court Fund in a timely manner, because the Justice did not ensure compliance with timely deposit and reporting requirements. The Board did not identify these deficiencies because it did not perform an annual audit of the Court's records. As a result, the Court had \$7,608 in unidentified funds at January 13, 2011. We reported similar findings in our prior two audits of the Village's Justice Court.

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 that they have taken, or plan to initiate corrective action. Appendix B includes our comments on issues raised in the Village's response letter.

¹ Since the current court clerk has been in office, cash receipts generally have been deposited timely.

Introduction

Background

The Village of Ellicottville (Village) is located in the Town of Ellicottville, Cattaraugus County in western New York State and has a population of approximately 500 residents, covering one square mile. The Village is governed by an elected Board of Trustees (Board), which consists of a mayor and four trustees. The Board is responsible for the general management and control of the Village's financial affairs and has the authority to levy taxes on real property located within the Village, set water user charges, and issue debt. The 2010-11 fiscal year budget totaled approximately \$785,000 for the general fund and \$140,000 for the water fund.

The Village operates its Court (Court) with two Justices, one elected Justice and one appointed acting Justice, who are responsible for Court operations. The majority of the Court's activity is handled by the elected Justice. The Justices have one court clerk. The former court clerk resigned on May 11, 2009, and the current clerk was appointed the same day by the Village Board (Board). The Court uses a software system to record case information and related financial transactions, such as receipts and disbursements.

The Court accepts cash, checks, money orders and credit cards for the payment of fines and fees imposed by the Court. At the end of each month, the court clerk prepares a report of adjudicated cases, together with fines and fees collected, which is filed with the Justice Court Fund (JCF). In addition, bail may be imposed on defendants to help ensure their appearance in Court to answer the charges against them. Bail is either returned to the individual who posted bail when the case has been adjudicated or applied toward the payment of any fines and fees imposed by the Court.

The Village's water is supplied by two wells. The Village currently provides water for its residential and commercial customers and sells water to the Town. Village and Town sewer billings are based on water consumption.

Objective

The objective of our audit was to assess the internal controls over the Village's Court and water operations. Our audit addressed the following related questions:

- Does the Village adequately monitor and reconcile the amount of water produced to the amount billed customers to properly account for water?

- Are internal controls over water billings appropriately designed and operating effectively to ensure customer billings are accurate?
- Are internal controls appropriately designed and operating effectively to ensure the proper accounting and reporting of the Court's financial transactions?

**Scope and
Methodology**

We examined water accountability and billing activity for the period June 1, 2009 to May 20, 2011 and Court operations for the period June 1, 2008 to May 20, 2011. 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
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 that they have taken, or plan to initiate corrective action. Appendix B includes our comments on issues raised in the Village's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk-Treasurer's office.

Water Accountability

Unaccounted for water is the difference between the amount of water produced and the amount of water billed to customers and other identifiable users for a given period. The Federal Environmental Protection Agency (EPA) has established an industry goal of 10 percent for unaccounted for water system losses. We found that the Village is experiencing excessive water loss: 84 percent, or approximately 104 million gallons of the water produced is unaccounted for and/or unbilled. Village officials were not aware of the extent of the Village's water loss because they lack procedures for monitoring how much water is produced versus how much water is billed to customers. Since sewer billings for both the Village and Town are based on water meter readings, uncaputered water usage also could result in lost sewer revenues.

All water operations can benefit from a water accounting system to help track this resource throughout the system and identify areas that may need attention, particularly large volumes of unaccounted for water. Water loss results in production expense for the Village for which no revenue is received. An effective water accounting system is a first step in minimizing water losses and reducing system costs. A periodic reconciliation of water produced with water billed and used for municipal purposes can help determine whether losses are caused by recordkeeping errors, leaks, thefts, or malfunctioning meters.

Village officials have not adopted any policies or related procedures concerning water loss monitoring or to address excessive water loss. We performed an analysis of water loss using water billing information, water quality reports and weekly bulk meter readings for water sold to the Town for the billing period June 30, 2010 to March 31, 2011.² We found that the Village's system has water loss of 84 percent, which is far in excess of the EPA goal. For perspective, for every one million gallons of unbilled water and sewer due to faulty meters or unmetered usage, the Village potentially could have generated approximately \$2,000³ in water revenue and \$4,000 in sewer revenue, or a total of \$624,000 annually.

² We excluded December 2010 billing register and water production data from our analysis because that quarterly billing register contained no usage for any account.

³ This calculation is based on a residential minimum usage of 15,000 gallons, and the residential minimum rate per quarter of \$30.59 for water and \$66.52 for sewer services.

Without an investigation and explanation of unaccounted for water, Village officials cannot determine the extent to which the Village is incurring costs to produce and treat water that is lost through leaks or consumption that is not being captured and billed. Village officials should determine the causes for and take steps to reduce the amount of unaccounted for water to improve the efficiency of their water distribution system, enhance the financial health of the Village's water fund, and preserve water resources.

Recommendations

1. Village officials should establish procedures for performing a periodic reconciliation of water produced to the amount billed.
2. Village officials should establish procedures for investigating the causes of the Village's significant water loss.

Water Billing

It is important that Village officials ensure that all water and sewer services are billed at Board-adopted rates and that bills are calculated accurately. However, we found that these services were not billed at rates approved by the Board because the Board had not authorized the current billing rates. We also found that billing staff made unauthorized adjustments, calculated billings incorrectly, and billed meter readings that were not supported by actual readings. These errors occurred because the Board has not adopted any policies or procedures to guide staff in performing water billing activities, or provided for a review of bills to ensure their accuracy. As a result, certain customers were over- or underbilled for water and sewer services.

Further, the Clerk-Treasurer can enter billing data, bill customers, make adjustments to customer bills, and deposit collections. When the same person performs all these duties without having someone independent of the billing function review his or her work, there is increased risk that errors or irregularities could occur and not be detected or corrected. Although all the sampled billing adjustments we reviewed appeared to be valid, the Board should segregate or provide oversight of billing duties to improve assurance that customers are billed what they owe for water and sewer services.

Water Rates and Meter Readings — It is important that the Board adopt policies that establish the rates at which local customers are billed for water and sewer services. However, we found no evidence the Board authorized the current water or sewer rates that were used to bill Village and Town residential and commercial customers. Therefore, residents cannot determine whether they are paying what the Board intends for water and sewer services.

Village officials are also responsible for ensuring that water charges are calculated correctly based on accurate metered usage. Meters should be monitored to ensure they are recording usage accurately and are read on a regular basis. We tested the June 2010 through March 2011 billings for 20 randomly selected individual accounts from among the 648 water accounts and 1,844⁴ Town sewer accounts billed by the Village. We found that 5 of the 20 accounts (25 percent) had errors on the billing register. Some accounts contained more than one error. Examples of errors include the following:

⁴ Per the March 2011 billing register

- One commercial customer was billed using a residential rate. As a result, this customer was underbilled by a total of \$489.
- One customer was underbilled by more than \$600 for two quarters, for a total of \$1,264. This was actually a residential unit consisting of 11 sewer hookups; however, the unit's owner was billed at only a single sewer hookup rate. Further, the billing register reflected estimated meter readings even though actual readings were recorded in the meter book.
- The September 2010 billing register incorrectly reflected June 2010 meter information for four customers.

We also reviewed the June 2010 through March 2011 billings for another 20 accounts, totaling \$428,235, which we considered to be at higher risk⁵ of billing errors. We found that all 20 accounts had errors on the billing register. Ten accounts were underbilled by \$5,905 and three accounts were overbilled by \$1,541; the remaining seven accounts contained errors, but the errors did not result in incorrect bills.⁶ Examples of errors include the following:

- One customer's meter that measured consumption in cubic feet⁷ was replaced by a meter that measured consumption in gallons in September 2010. However, water use continued to be calculated in cubic feet until March 2011, producing an apparently large increase in consumption. The Clerk-Treasurer suspected that this data was inaccurate, without knowing the cause of the problem, so the Village issued minimum bills for those two quarters. As a result, based on the Village's rate structure, it appears this customer was underbilled for water and sewer by approximately \$690.
- A commercial customer's newly installed remote feed meter registered the same reading for at least two quarters before Village officials determined that the billing system was continuing to register readings from the old meter. The Village issued minimum bills, erroneously calculated at the residential rate, for each of those quarters totaling \$398 for water and sewer, instead of approximately \$3,000 using the commercial rate and based on consumption reported on the quarterly

⁵ We judgmentally selected our second sample of accounts based on the following risk factors: unusual consumption, penalty suppression, new account, and possible fraud/conflict of interest.

⁶ Due to high minimum volume, the errors encountered did not affect the amount billed.

⁷ One cubic foot equals approximately 7.5 gallons.

billing registers. Although Village officials had removed the old meter and put it in storage, they did not ensure that the billing software selected the correct meter – the new one – for usage readings.

- The December 2010 quarterly billing register incorrectly showed no water usage for 640 water customers, who then received bills for minimum usage. Village officials stated this was due to an administrative error when the billing register was printed. Village officials attempted to correct this error by adding any usage over minimums from the December 2010 period to the March 2011 billing.

These errors in billings occurred because the Board did not adopt procedures that detailed how water and sewer bills should be processed or provide for an oversight mechanism to ensure that amounts billed are based on accurate usage. This was especially important as Village officials installed a new water meter system in 2009 and experienced various technical problems. Unless the Board adopts approved water and sewer rates and ensures water and sewer billing is accurate, Village officials have no assurance that customers are paying what they actually owe for these services.

Segregation of Duties — It is essential that critical financial duties be segregated, so that one person is not responsible for recordkeeping, billing and collection, and deposit of collections without oversight by another person who is independent of this function. Failure to segregate duties, or provide for compensating controls, increases the risk of billing errors and irregularities. However, we found that the Clerk-Treasurer handles all aspects of water billings. The Clerk-Treasurer enters, edits, and deletes water customer account information; downloads usage data to the billing software; runs the quarterly billing registers; prints, mails and makes adjustments to bills; collects receipts and prepares deposits; manually applies penalty charges; and prepares reports for the re-levy of unpaid bills onto the tax roll. The Mayor does not collect or deposit payments, but he does enter readings taken from meter read books for both Village and Town customers, make adjustments to bills, and posts receipts to customer accounts.

The Clerk-Treasurer generates a quarterly billing register. She and the Mayor review the register on a high-level basis to look for obvious errors prior to printing and mailing water bills. However, they do not compare billed amounts in the register to meter books to ensure billings are correct. We also found that Village officials do not routinely print out and review reports of adjustments made to customers' accounts to make sure adjustments are correct and legitimate.

We examined the adjustment reports for the four quarterly billing cycles from April 1, 2010 to March 31, 2011, and found that the Clerk-Treasurer made \$394,572⁸ in adjustments to 64 customer accounts, and the Mayor made \$301 in adjustments to five customer accounts. Although all these adjustments appeared to be valid, the fact that the Clerk-Treasurer and the Mayor can adjust customer accounts without independent review or oversight increases the risk that errors could occur and not be detected or corrected.

Recommendations

3. The Board should properly establish water and sewer rates.
4. The Board should develop and adopt policies and procedures for water billing activity.
5. Village officials should ensure that an individual who is independent of the billing process compares the quarterly billing register to meter readings and Board-adopted rates, and reviews adjustments made to customers' accounts.
6. Village officials should review existing accounts to determine if customers have been under/over-charged. Action should be taken to resolve significant variances.

⁸ An adjustment of \$383,803 for a commercial customer (involving the addition of a zero to a water meter reading by mistake) accounted for all but \$10,769 of this amount.

Justice Court Operations

Justices are responsible for accounting for and reporting all Court-related financial activities. To meet that responsibility, they must maintain complete and accurate accounting records, reconcile Court collections to the corresponding liabilities, timely deposit all money collected, and file monthly reports with the JCF. The Board is responsible for overseeing the financial affairs of the Court, and is required to perform an audit of the records and dockets of the Village Justice at least annually.

We found that the elected Justice who handles most of the Court's activities did not properly account for financial transactions of the Court. Because the Justice did not ensure that the former court clerk prepared monthly accountability analyses, bail monies from as long ago as 1992 had not been investigated so they could be properly identified with the relevant case and, if exonerated, remitted to the individual to whom they were due. We also found that the former court clerk did not deposit cash receipts timely and intact,⁹ or prepare and submit monthly reports to the JCF in a timely manner, because the Justice did not ensure compliance with timely deposit and reporting requirements. The Board did not identify these deficiencies because it did not perform an annual audit of the Court's records. As a result, the Court had \$7,608 in unidentified funds at January 13, 2011. We reported similar findings in our prior two audits of the Village's Justice Court.

Accountability — It is important for Justices to periodically verify the accuracy of their financial records and establish adequate control over cash. To accomplish this, they should routinely compare the amount of cash on hand and on deposit in the bank to detailed lists of amounts due to the JCF and other outstanding liabilities. This comparison is referred to as an accountability analysis and should be performed on a monthly basis. Periodic analyses should identify the source and amount of all fine and bail revenue held in the Justice's accounts, and should detect any improper disbursements of funds so that corrective action could be taken in a timely manner. Unclaimed exonerated bail¹⁰ should be remitted to the Village Treasurer, and unidentified funds should be turned over as such to the JCF.

The Justice does not complete monthly accountability analyses. Therefore, we performed an accountability at June 1, 2008, and

⁹ Since the current court clerk has been in office, cash receipts have been generally deposited timely.

¹⁰ Exonerated bail occurs when the case is concluded and the bail is released to the person who originally posted it, as long as it was not previously forfeited.

found that cash exceeded known Court liabilities by \$9,043. We also performed an accountability as of January 13, 2011 and found that cash exceeded known Court liabilities by \$6,336 – a reduction of \$2,707 in the amount of unidentified funds held by the Justice. The current court clerk’s investigation of old case files that had been adjudicated but never reported to JCF accounts for this improvement. For example, three receipts totaling \$330 were deposited in August 2008 but were reported to the JCF for July 2009, November 2009, and November 2010 – from one to two years after the deposit was made.

The Justice provided us with a list of old bail totaling \$7,250 to substantiate the cash he transferred into his new bail checking account in January 2011. The list included bail from the period 1992 to 2009. The Justice told us that he and the current court clerk are investigating the source of these bail monies because they do not have case files or receipts for them. If the Justice had ensured that the former court clerk performed accountability analyses on a monthly basis, these monies would have been properly identified with the relevant case and, if exonerated, remitted to the individuals to whom they were due.

Bank Deposits — New York Codes, Rules and Regulations require all receipts to be deposited as soon as possible and within 72 hours (excluding Sundays and Holidays) of the date of receipt. Additionally, deposits should be made intact, that is, in the same form (cash, checks) and order they were received. This requirement is an essential control that helps prevent irregularities in the management of cash.

During the audit period, the former court clerk did not deposit cash receipts intact and in a timely manner. We compared the cashbook reports to deposits for seven months¹¹ during our audit period and found that none of the total monthly deposits agreed with the monthly cashbook report and JCF report totals. We also obtained compositions of deposits for those months and found that Court funds were not deposited timely. For example, five checks or money orders dated September 2008 and totaling \$555 were not deposited until January 6, 2009. The failure to deposit Court funds on a timely basis into official bank accounts increases the risk that Court funds could be lost or misused and not detected and corrected in a timely manner.

Reporting — The Court files monthly reports electronically with JCF detailing fines, fees, and forfeited bail, and provides a check for the total amount of the report to the Clerk-Treasurer. Reports to JCF are due between the 1st and the 10th of each month.

¹¹ We judgmentally selected the months of August and December 2008, January and May 2009, January and August 2010, and January 2011 both to examine activity during both the former and current clerks’ tenures, and to sample months with the greatest activity.

We tested seven checks from the Court to the Clerk-Treasurer and compared them to related monthly¹² reports from August 2008 to January 2011. Although the check amounts generally agreed with the reports, the Court did not prepare the checks and send them to the Clerk-Treasurer in a timely manner. For example, the check for July 2010 activity of \$2,397 was combined with August 2010 activity of \$3,805 and cleared the bank on September 22, 2010. The failure to report activity in a timely manner increases the risk that Court funds may not be accurately recorded and reported.

Annual Audit — Board oversight is a critical component in ensuring that the Court has effective internal controls in place, and that Court records are adequate to assure accountability for cash assets. However, the Board did not properly oversee Court operations because it failed to perform an annual audit of Court records. The Uniform Justice Court Act¹³ requires justices to present their records and dockets to the Board for audit at least once each year. Board members must either audit the records or engage an independent public accountant to do so. The minutes of the proceedings of the Board should document the results of the audit. Had the Board properly conducted an audit as required, the deficiencies found during this audit would likely have been identified and corrective action could have been taken sooner.

Recommendations

7. The Justice should perform a monthly accountability analysis of monthly liabilities to available cash with any differences being promptly identified, investigated and corrected. Any money in the account that cannot be identified should be reported and remitted to the JCF as such.
8. The Justice should ensure that Court monies collected for the payment of fines, fees, surcharges, and bail are deposited within 72 hours of receipt.
9. The Justice should prepare and submit checks to the Clerk-Treasurer no later than the tenth of the following month.
10. The Board should perform an annual audit, or cause one to be performed, of the Justice's financial records and document the results in the minutes.

¹² From the same seven months included in our deposit testing

¹³ Section 2019-a

APPENDIX A

RESPONSE FROM VILLAGE OFFICIALS

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

Village of Ellicottville

PO Box 475
Ellicottville, New York 14731
Phone (716) 699-4636
Fax (716) 699-4316

Charles R. Coolidge

Mayor
November 15, 2011

Mary Klahn
Village Clerk

Buffalo Regional Office
Robert Meller, Chief Examiner
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Dear Mr. Meller:

In response to our recent audit, I would like to express my position on the water/sewer billing situation. In 2009 the Village started to buy new meters from Badger Meter. The Village currently has a billing system supplied by [REDACTED]. [REDACTED] has been supplying Government software for over 40 years. From the day we started with the new meters the meter readings were not uploading from the Badger system to [REDACTED]. It appears that the issue was caused by incorrect order of operations, which was preventing the correct account information from being imported into the [REDACTED] software. Badger meter has worked with [REDACTED] to change the procedure that is required to import and export this data, which will help prevent this issue from occurring in the future. [REDACTED] worked with the Village and Badger to identify and correct the problem. In addition, [REDACTED] reviewed the meter replacement and reading estimate process with the Village. I feel we are on the right track and have made great strides in correcting all issues.

Also, Mayor Coolidge and the Village Board have asked Mike Smith from Nussbaumer & Clarke, Inc. (the Village Engineer) to monitor and spot check the quarterly bills to make sure that the charges are both fair and accurate. Mayor Coolidge has set up a Billing Review Committee with Mike Smith, Robert Brogcinski (Village Deputy Mayor & Trustee) and myself (Village Clerk-Treasurer). We have met on numerous occasions to verify the bills and double check the metered usage for reasonableness. Every effort is being expended to make this billing process more effective and efficient. This includes the automation of the meter reading system. As Mike Smith stated in his letter that is attached, once the metering system is completely automated, we anticipate many of the issues we have had in the past will be eliminated. Mike Smith is also working on simplifying the number of billing codes that currently exist in both the Village water and sewer accounts.

The Deputy Mayor has been working very closely with the Village Court Clerk on a quarterly basis to make sure the internal controls are appropriately designed and operating effectively to ensure the proper accounting and reporting of the Court's financial transactions.

See
Note 1
Page 22

In response to paragraph 3 on page 8 under water accountability: The unaccounted for water does not go thru any meters. Now that all master meters are working correctly we have a better count on how many actual gallons we pump to the Town. We will not have the proper answers until we go thru our high consumption billing and one complete year of readings.

See
Note 2
Page 22

The Village has hired E. J. Prescott Inc. from Jamestown, NY along with our DPW Department to investigate the causes of the water loss. Currently we have found one major leak on Elizabeth and Elk Street. We will be fixing that leak on 11/15/2011. We have presently surveyed ¾ of the Village and found that one leak above and one service leak. We will not know the end result until the end of our fiscal period. At that time we will reevaluate and proceed with further action. We are also currently looking into purchasing leak detection equipment.

On page 10 paragraph 3 the Village board has adopted policies that have established the rates at which local customers are billed for water and sewer services. These were put into effect in 2001 and then an increase of 3% followed in 2005. The Village Clerk at that time did not put the motion in the minutes. All of the minutes and proper paperwork was supplied to the auditor.

See
Note 3
Page 22

The first (bullet) on page 10. This account was checked into by the Village Clerk and the Mayor and from the time the new meter was put in to present the account has used 353,025 gallons. This was a system problem but the customer was billed correctly.

See
Note 4
Page 22

Second (bullet) on page 10. The Mayor and I found this account had a glitch in the system. This customer had been billed for 11 sewer hookups and suddenly was only billed for one. We feel that this happened when [REDACTED] recalculated our accounts, as mentioned on the attached letter. We brought this to the board's attention and re-sent this customer the July Bill with proper amount with a letter explaining what had happened. The letter was supplied to the auditor. The situation has been corrected.

See
Note 5
Page 22

The next (bullet) on my page 11. Starting with the September 2010 billing register. Again, due to software errors and has been corrected. We feel they were billed reasonably and fairly due to the customer's history.

The next (bullet) on page 11. Starting with One customer's meter – This error was found by the committee. The problem was corrected and we feel they were billed reasonably and fairly due to the customer's history.

See
Note 6
Page 22

Next (bullet) on page 11. A commercial customer's newly installed meter. The DPW did correct the problem with the old meter. We once again do not agree with the calculations and feel this account has been billed reasonably and fairly due to the customer's history.

See
Note 7
Page 22

The last (bullet) on page 11. Billing register readings – This account was discussed at our Water and Sewer Committee Meeting which consists of the Village Engineer, Town

Engineer, Mayor and Town Supervisor and 2 trustees. After much discussion and looking to the history of this customer was definitely a computer error. The recommendation of the committee was to bill the customer the minimum amount. The customer was not overbilled.

See
Note 8
Page 22

The next (bullet) on page 12. The December 2010 – This was an administrative error. Instead of putting in the date of 1/30/2011 I put in 12/30/2010. I immediately discussed the problem with [REDACTED]. They instructed me to implement a OTB on the next bill. (meaning a one time charge) This billed all accounts the correct amount that was under billed from the error.

In reference to the segregation of duties I would like to respond that the Village of Ellicottville Board knew we were having software problems and that is why the Mayor started the committee to ensure billings are correct and legitimate.

We feel that we have properly established the water and sewer rates in 2001.

See
Note 3
Page 22

The board has adopted policies and procedures for reviewing water billing activity by implementing the Billing Review Committee. Also, the Village retained RA Mercer and Associates (our outside accounting firm) that come in every month to review that all accounts and balances are correct.

The Village Engineer Mike Smith is independent of the billing process and compares the quarterly billing register to meter readings and Board-adopted rates, and reviews adjustments made to customers' accounts.

The Billing Review Committee has taken action to make sure the existing accounts have not been overbilled or under billed and along with the Mayor are seeing that they are correct and legitimate.

Sincerely,



Mary J. Klahn

Village Clerk - Treasurer

**Ellicottville Village Court
P.O. Box 1049
Ellicottville NY 14731**

Judge: John T. Rogan

Phone: 716-699-4513

Page 1 of 2

November 15, 2011

State of New York
Office Of The State Comptroller
295 Main Street, Room 1032
Buffalo NY 14203

Dear Mr. Hancox:

I am writing this letter in response to the findings and recommendations of the recent audit of the Village of Ellicottville Justice Court operations from June 1, 2008 thru May 20, 2011 completed by The State Of New York Office Of The State Comptroller..

I do agree with the finding of the audit and have taken the appropriate action to deal with, correct and ensure all financial activities are in compliance with the bureau of Justice Court Funds.

As mentioned in the report, since the current court clerk has been in office the financial activities of accounting and reporting have pretty much been in the guidelines.

During the period of the audit and since the completion of it. The following areas have been addressed:

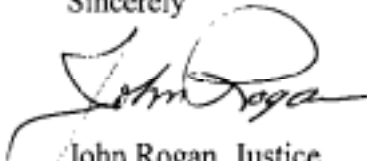
- Bail monies has been investigated and has been properly returned or applied to the proper fines and surcharges and sent into the State Comptroller's Office. The current Bail Account reflects recent pending cases with the exception of a couple we are still investigating with expectation of a solution in the near future.
- The findings of deposits not made within the 72 hour time from date of receipt. Noting that the former court clerk failed to do this had been noticed by myself and current court clerk. My current court clerk has spent a considerable amount of time in correcting reports to the Comptroller Office. This has resulted in a great reduction in the court's unidentified funds. This is continuing at this time.
- The reporting of the monthly report by the 10th of each month has, I believed, been timely since the current clerk has been on board. I personally was responsible for not preparing the checks and sending them to the clerk-treasurer of the Village of Ellicottville. I generally waited until I received the copy of disbursement from the State Comptroller's Office of which I misplaced the July ,2010 activity report and combined it with August, 2010 report. I have most recently addressed this and I draft a check to the Village of

Ellicottville when the clerk has prepared the monthly report, by the 10th of the following month.

- The annual audit problem has been addressed in that the court clerk will prepare a report and make available the court financial records every 3 months for review by a member of the Ellicottville Village Board, who is appointed by the board. The appointee will report to the Ellicottville Village board and they will receive and review the financial records of the court annually, for audit purposes.
- In the most recent past, the court clerk has been performing a monthly accountability analysts and during her tenure a zero balance has been shown for each monthly activity (in take) and reporting (disbursement).

I wish to extend my compliments to your office regarding [REDACTED] your auditor, I found her very professional, thorough, and patient as well as friendly during her time working with myself and my court clerk.

Sincerely



John Rogan, Justice
Village of Ellicottville

APPENDIX B

OSC COMMENTS ON THE VILLAGE'S RESPONSE

Note 1

We did not include the separate letter from the Village Engineer because the issues addressed in this letter are also addressed in the Village's response.

Note 2

Although the unaccounted for water may be attributable to leaks, or to consumption that is not identified and billed, it could also result from meters that do not record consumption accurately.

Note 3

The Board acted to establish water rates in 1996 and it increased the rates in 2005 by 3 percent. Water rates were also increased between 1996 and 2005, beginning in 2001. However, there was no evidence that the Board authorized the 2001 rate increase. As a result, we could not confirm that the rates currently being used for billing are in accordance with the Board's intentions.

Note 4

This commercial customer was not billed correctly because it was billed at a residential rate.

Note 5

The Village corrected the billing for the most recent two quarters of our audit period, but failed to correct the billing for the prior two quarters.

Note 6

The problem was not corrected. The Village was charging the customer a minimum bill. The new meter's actual reading showed consumption that was above the minimum level, but the Village did not bill the customer for the additional \$690, as stated in our report.

Note 7

We disagree. This customer, a restaurant with public facilities, was charged for minimum usage at a residential rate rather than for actual usage at a commercial rate, resulting in underbilling of about \$2,200.

Note 8

The finding was removed based on documentation provided by the Clerk-Treasurer, just prior to the release of this audit report, that indicated this customer's bill was appropriately reduced by \$844.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls 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: financial oversight, cash receipts and disbursements, purchasing and payroll and personal services. During the initial assessment, we interviewed appropriate Village officials, Justice Court and Department of Public Works staff, performed limited tests of transactions and reviewed pertinent documents, Board minutes and financial records and reports.

In addition, we obtained information directly from the Court's computerized financial databases and then analyzed it electronically using computer-assisted techniques. This approach provided us with additional information about the Court's financial transactions as recorded in its databases. Further, we reviewed the Court's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

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 and/or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas most at risk. We selected the Justice Court, water billing and water accountability for further audit testing.

The objective of our Justice Court audit was to determine whether the internal controls over Court operations were appropriately designed and operating effectively for the period of June 1, 2008 to May 20, 2011. To achieve our objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Court personnel to gain an understanding of their operation.
- We reviewed and/or prepared accountability reports to help determine whether Court assets and liabilities balanced.
- We compared recorded cash receipts and disbursements with supporting documentation, such as case files and records of bail transactions in the manual ledger and accounting system.
- We compared amounts recorded in the Justice's accounting records to amounts deposited, and the amounts included in the Court's monthly reports to the JCF.
- We obtained information from Department of Motor Vehicles records and compared that information to the Court's records to determine if cases were properly disposed.

The objective of our water billing and accountability audit was to determine whether the internal controls over water operations were appropriately designed and operating effectively for the period of June 1, 2009 to May 20, 2011. To achieve our objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed Village officials regarding policies and procedures related to water billing and accountability, and reviewed reports from the Department of Public Works and the Village's accounting software.
- We tested 40 accounts over four quarterly billing periods to determine if the rates used in the billing calculations were appropriate. Twenty accounts were randomly selected and an additional twenty accounts were selected for testing based on risk due to noted consumption or penalty variations, or their being new accounts or officials' accounts.
- We compared the billing registers to manual meter reading books and prior meter readings recorded in previous quarterly billing registers to determine if usage was accurate.
- We compared the Clerk-Treasurer's year end unpaid report to the billing register to determine if penalties were assessed in a timely and accurate manner.
- We analyzed Village weekly and monthly water production reports and quarterly billing records.
- We performed a water accountability for water loss monitoring by comparing the amount of water produced by the Village to the amount of water consumed. We also compared the rate of loss to standards for water loss within municipal systems as established by the Environmental Protection Agency.

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

APPENDIX D

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