Town of Greenburgh
Greenburgh Sewer District #4 Capital Project

Report of Examination
Period Covered:
January 1, 1979 — September 13, 2007
2007M-268

Thomas P. DiNapoli
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUTHORITY LETTER</td>
<td>3</td>
</tr>
<tr>
<td>INTRODUCTION</td>
<td>5</td>
</tr>
<tr>
<td>Background</td>
<td>5</td>
</tr>
<tr>
<td>Objective</td>
<td>5</td>
</tr>
<tr>
<td>Scope and Methodology</td>
<td>5</td>
</tr>
<tr>
<td>Comments of Local Officials and Corrective Action</td>
<td>6</td>
</tr>
<tr>
<td>SEWER DISTRICT CAPITAL PROJECT</td>
<td>7</td>
</tr>
<tr>
<td>Construction Costs</td>
<td>7</td>
</tr>
<tr>
<td>Annual Assessments</td>
<td>8</td>
</tr>
<tr>
<td>Recommendations</td>
<td>12</td>
</tr>
<tr>
<td>APPENDIX A Response From Town Officials</td>
<td>13</td>
</tr>
<tr>
<td>APPENDIX B OSC Comments on the Town’s Response</td>
<td>19</td>
</tr>
<tr>
<td>APPENDIX C Audit Methodology and Standards</td>
<td>20</td>
</tr>
<tr>
<td>APPENDIX D How to Obtain Additional Copies of the Report</td>
<td>22</td>
</tr>
<tr>
<td>APPENDIX E Local Regional Office Listing</td>
<td>23</td>
</tr>
</tbody>
</table>
Division of Local Government
and School Accountability

June 2008

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Greenburgh, entitled Greenburgh Sewer District #4 Capital Project. This audit was conducted pursuant to the State Comptroller’s authority as set forth in Article V, Section 1 of the State Constitution and 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
Background

The Town of Greenburgh (Town), located in Westchester County, has approximately 87,000 residents. It provides a range of services to its residents including highway maintenance, snow removal, and sewer service. These services are financed mainly by real property taxes and assessments, sewer rents, and State aid. The Town Board (Board) is responsible for the overall financial management of the Town, including establishing appropriate internal controls over financial operations. The Town Supervisor (Supervisor) is the chief fiscal officer and, along with the Town Comptroller, is responsible for the Town’s daily operations. The Town’s 2007 general fund budget was approximately $72 million.

Beginning in the mid-1970s, the Town began construction of 19 “Federally assisted” sewer districts. These districts were constructed under a grant program offered by the United States Environmental Protection Agency in conjunction with the New York State Department of Environmental Conservation. The grant reimbursed the Town for 87.5 percent of eligible construction costs for the sewer districts. The remaining amount was to be paid by sewer district residents, with funds raised by the Town from the sale of bonds. The project began in the mid- to late 1970s and construction of the 19 districts was completed by 1989.

We received a taxpayer complaint concerning how the Town is assessing construction costs in the Greenburgh Sewer District #4 (District), one of the Town’s 19 sewer districts. Based on these complaints, we decided to conduct an audit of the Town.

Objective

The objective of our audit was to determine if the Town obtained needed approvals for, and properly assessed, the District’s construction costs. Our audit addressed the following question:

- Did the Town obtain proper approvals for construction costs incurred for the District’s capital project and have those costs been properly assessed to District residents?

Scope and Methodology

We examined the Town’s internal controls over the construction costs for the District for the period of January 1, 1979 to September 13, 2007.¹

¹ During the course of our audit, we determined that the Town did not accurately adjust the amounts assessed to taxpayers to reflect changes such as property improvements or subdivisions. As a result, we extended our scope period to January 1, 1979, to review the history of the construction project to determine the extent of the incorrect assessments.
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.

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated that they planned to take corrective action. Appendix B includes our comments on issues raised in the Town’s response letter.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days. For guidance in preparing the plan of action, the Board may refer to applicable sections in the publication issued by the Office of the State Comptroller entitled Local Government Management Guide. We encourage the Board to make this plan available for public review in the Town Clerk’s office.
Sewer District Capital Project

The Board is responsible for oversight and management of the Town’s capital projects. As such, the Board is responsible for designing internal controls to ensure that capital projects are properly developed and managed. Effective controls ensure that projects are properly planned, funding is authorized, and project costs are kept within their approved levels. Also, after capital projects are completed, it is the responsibility of the Board to properly allocate construction costs to taxpayers through yearly assessments.

Town officials did not obtain the proper approval from the Office of the State Comptroller (OSC), or notify District residents, when they expended an estimated $220,000 in sewer district construction costs. The Board did not implement appropriate internal controls to ensure that Town officials updated benefit units\(^2\) when residents subdivided or improved their properties. As a result, the Town over-billed each District resident who is assigned a 1.0 benefit unit by $26 for the 2007 annual assessment, and we estimate that the average resident would have saved $427 during the period 1989 to 2007 on sewer assessment charges. Also, the Town failed to charge five District residents for assessment charges since 1988.

According to General Municipal Law (GML), projects that involve town special improvement districts require the Office of the State Comptroller’s (OSC’s) approval prior to the municipality incurring debt for the project. OSC reviews the municipality’s outstanding indebtedness, the total assessed valuation of the taxable real property situated in the proposed district or extension of a district, and the average full valuation of the taxable real property of the municipality to determine whether the municipality will exceed its tax and debt limitations by establishing or extending the special district.

The District was established by resolution on September 28, 1979. In establishing the District, Town officials filed an application with, and received approval from, OSC to set the maximum amount of $885,430 that the Town expected to spend on constructing the District. Due to a cost increase, on December 1, 1982, the Town filed another application with, and received approval from, OSC to increase the

---

\(^2\) The Town funds the District, in part, by imposing assessments on parcels that derive a benefit from the District based on the proportion of the benefit received by each parcel. Each lot within the District with a building is assigned a 1.0 benefit unit for this purpose, while a vacant lot is assessed a 0.1 unit. The annual assessment cost is divided by the total benefit units within the District to determine each individual resident’s bill.
maximum amount that it expected to spend on the construction project to $1,060,500, a $175,070 increase. After 1982, project construction costs increased again to $1,276,728, an approximate $220,000 increase. However, this time the Town did not file an application with OSC to increase the maximum amount that the Town expected to spend on the construction project.

In addition, according to Town Law, when a town establishes a sewer district, the town board must approve — after a public hearing and by creating an order — the initial construction and any increases to the maximum amount that the town expects to spend on the sewer district construction project. Town officials must present the order to the town board, which ensures that the order is available for public review during a public hearing. In considering whether to approve an increase in the maximum amount, the town board determines whether it is in the public interest to authorize the increase and ensures that OSC has approved the increase.

We found that for the second cost increase, from $1,060,500 to $1,276,728, Town officials did not enact a resolution authorizing the increase of the maximum amount to be expended. Therefore, no public hearing was held and the public was not notified of the increase in the District’s construction costs.

When Town officials failed to submit the second cost increase to OSC they violated GML. Also, when they did not notify District residents of the cost increase, through a public hearing and by creating an order, they violated Town Law. In addition, District residents became responsible for the payment of monies expended by the Town without having the ability to question the increase in costs.

**Annual Assessments**

When planning to fund construction costs for a sewer district, it is important for town officials to adequately and correctly determine the initial amount that will be borrowed and then charged to district residents. Also, town officials are responsible for accurately determining the amounts that will be assessed to taxpayers each year based on the condition of their properties. To ensure that these annual assessment payments are correct, town officials must ensure that town property records are correct and up-to-date.

Town Law provides two methods to assess the cost of a district improvement when the town intends to divide the cost among the parcels that will benefit from the district’s services. Under the first method (Method 1), the town board may assess the entire project cost against benefited parcels and allow each parcel to pay its proportionate share in a lump-sum amount up front or in installments over a period of years. In this case, the amounts to be paid by each parcel for the initial
cost of the improvement are fixed at the outset and do not change, even if benefited parcels choose to pay their proportionate share in installments. Alternatively, under the second method (Method 2), the town board may impose benefit assessments annually on each benefited parcel by preparing a special assessment roll based on the relevant status of each parcel at that time. When using this method, each year town officials must determine the annual payment due and assess that cost to district residents by spreading the cost among the benefited properties, based on the current status of each property. The annual assessment cost is divided by the total benefit units within the district to determine each individual resident’s bill. If the cost of the maximum project amount increases (such as due to a cost overrun), the town board must use either Method 1 or 2 to assess the increased costs to the benefited parcels. When assessing any increased costs, the town is not required to apply the method that it first used to assess the original expected cost of the district improvement.

In 1988, the Town notified District residents of the assessment amount for the entire project cost\(^3\) and gave them the opportunity to pay their share in full (Method 1). At that time, Town officials had determined that there were 75.5 total benefit units in the District. Five residents, a total of 4.1 benefit units, chose to pay their initial assessment in full. Town officials told residents that they would review the property assessments annually to determine if improvements to the residents’ properties had taken place and would change the benefit units assigned to the properties when residents subdivided or improved them. However, this review would not affect the assessment payments that District residents made each year toward the original cost of the District improvements.

Due to a second cost overrun, totaling approximately $220,000,\(^4\) Town officials recalculated the amount of the construction costs to be divided among District residents. However, this time the Town did not notify District residents of the assessment amount for the entire cost overrun and give them the opportunity to pay their share in full (Method 1). Instead, the Town began billing District residents for the newly assessed amounts. Because the Town did not notify District residents of the assessment amount for the second cost overrun and give them opportunity to pay their share in full, by default the Town used Method 2 to assess this cost overrun to benefited parcels. As a result, it was important for Town officials to do the following:

- Review the property assessments to determine if improvements to the residents’ properties had taken place and

\(^3\) This amount included the original maximum amount of $885,430 and the first cost overrun of $175,070.

\(^4\) The Town funded the increased construction costs for the District using other Town funds.
change the benefit units assigned to the properties to reflect any subdivisions or improvements.

• Apportion the amount of the second cost overrun to District residents using the updated benefit units. Any increases in the number of benefit units would change the allocation of the assessment, thus potentially reducing each property owner’s bill.

• Bill the five District residents, who paid their initial proportionate share in a lump sum, for the second cost overrun using the updated benefit units that matched the status of their properties at that time.

In 1992, Town officials began billing District residents for their proportionate share of the second cost overrun. However, instead of using the appropriate number of benefit units at that time, Town officials allocated the assessment costs using 71.4 benefit units. We found that the Town has not reviewed the property assessments since 1988, and consequently, has not adjusted the number of benefit units used to determine residents’ assessment payments. These changes should have resulted in benefit units totaling 79.4 in 2007.

The total amount assessed to District residents in 2007 was $34,390. For each benefit unit, District residents were billed $482. Given the changes that have occurred, we estimated that District residents should have been billed $455, which indicates that each resident who was assigned a 1.0 benefit unit overpaid the 2007 annual assessment by $26. In addition, Town officials did not bill the five residents who paid their initial proportionate share in a lump sum. As a result, these five residents have not paid their proportionate share of the second cost overrun. Specific examples of our findings are as follows:

• In 1988, a property was subdivided creating two lots: one lot had a building and other did not. The Town assigned a 1.0 benefit unit to the improved property and the resident continued to pay the 1.0 benefit unit. However, the Town did not assign a 0.1 benefit unit to the newly created property. In 1990, the Town did not change the newly created property’s benefit unit to 1.0 when it was improved and fully assessed.

• In 2001, another property was subdivided: one lot had a building and other did not. The Town assigned a 1.0 benefit unit to the improved property, but the Town did not assign a 0.1 benefit unit to the newly created property. In 2003, the Town did not change the newly created property’s benefit unit
to 1.0 when it was improved and fully assessed. The Town collected a $1,500 hook-in fee\(^5\) for the newly created property. Due to the lack of complete accounting records, we could not determine how Town officials used the $1,500.

- In 1998, one of the residents who had paid his initial assessment in full improved his property and had it fully assessed for tax purposes. However, the Town did not change the benefit unit from 0.1 to 1.0 for the newly improved property.

- In 2002, a property that had been assigned a 0.1 benefit unit was improved and fully assessed. However, the Town did not change the benefit unit from a 0.1 to a 1.0 for the newly improved property. Town officials provided documentation to show that the Town had billed the resident for a $1,500 hook-in fee, but they could not verify that the Town had actually collected the hook-in fee from the resident.

Town officials told us that the Town Assessor did not change the benefit unit assigned to a property once an improvement took place because he was unsure whether the property should have been charged a hook-in fee, assigned a benefit unit, or both.

**Hook-In Fees** — Town Law authorizes the imposition of one-time “hook up” or “entrance” fees for sewer districts. The courts have held that these one-time fees must be limited to the amount of costs incurred by the town with respect to the actual connection of users to the sewer system (e.g., installation of a supply pipe and inspection of the connection itself), and the town may not use the fees, even pursuant to its home rule powers, to defray the costs of capital improvements to the system.\(^6\) Under the Greenburgh Town Code, whenever a new sewer connection is being made and the property involved has not paid any part of the construction cost of the main sewer being connected to, the Town may levy a “hook-in” fee on the property. However, according to the Town Code, the hook-in fee is intended to represent a proportionate share of the capital construction cost.

Also, the Town Code provides that the hook-in fee may be imposed only if a property has not paid any part of the cost of the main sewer to which it is being connected. However, it is unclear whether any properties within the District would fall within the category of properties that did not pay any part of the capital construction cost.

\(^5\) Town Law authorizes the imposition of one-time “hook up” or “entrance” fees for sewer districts when new sewer connections are installed into an existing system. Refer to the following discussion on hook-in fees for further information.

\(^6\) 2001 Opinions of the New York State Comptroller No. 2001-7, at 11
Due to the Town Code’s definition of what the Town uses the hook-in fees for and when it is appropriate for the Town to levy a hook-in fee, we question the legal propriety of the Town’s hook-in fee.

District residents have been unduly burdened with excess costs on an annual basis since 1992 when the Town recalculated the assessment costs. Due to property subdivisions and improvements, we estimate that the average resident would have saved $4277 during the period 1989 to 2007. The Board and the Supervisor became aware of the concerns regarding the assessments as early as March 2006. However, to date, they have not addressed these concerns or initiated appropriate corrective action.

Recommendations

1. Town officials should obtain appropriate OSC approval, as necessary, before making expenditures when there are cost overruns in connection with a special district improvement.

2. Town officials should implement internal controls to ensure that the Town makes proper assessments to cover the increased costs associated with a special district improvement.

3. The Town Assessor annually should update benefit units to reflect changes that have occurred during the year.

4. Town officials should develop and implement a clear and concise policy that explains the events that would result in a change to a benefit unit or in the levy of a hook-in fee.

5. Town officials should ensure that the Town Assessor uses the correct number of benefit units when determining District residents’ annual assessment charges.

6. Town officials should review the other 18 sewer districts to determine whether similar problems exist in those districts and take appropriate corrective action.

7. The Board should review with the Town Attorney the underlying authority for the Town’s hook-in fee.

\(^7\) In calculating the average cost savings, we used the amounts assessed to the District for each year.
APPENDIX A

RESPONSE FROM TOWN OFFICIALS

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

The Town’s response letter refers to attachments that support the response letter. Because the Town’s response letter provides sufficient detail of its action, we did not include the attachment in Appendix A.
TOWN of GREENBURGH
OFFICE OF THE SUPERVISOR
177 Hillside Avenue  Greenburgh, New York 10607
(914) 993-1540 Office    (914) 993-1541 Fax    (914) 478-1219 Home
Web Site - www.greenburghny.com
E-Mail - pfeiner@greenburghny.com

PAUL J. FEINER
Supervisor
May 20, 2008

Office of the State Comptroller
State of New York
Newburgh Regional Office
33 Airport Center Drive, Suite 103
New Windsor, New York 12553

Attn: Local Government Services

Dear:

Thank you for affording the Town an opportunity to respond to the Draft Report of Examination ("Draft Report") submitted by the Office of the New York State Comptroller on May 1, 2008, in connection with its examination and review of the Town's internal controls relating to oversight of Federally Assisted ("FA") Greenburgh Sewer District #4 for the period of January 1, 1979 to September 13, 2007.

The discussion that follows is presented in an order corresponding with sections of your Office’s Draft Report in a manner that hopefully will permit you to have the fullest and most accurate information when preparing your Final Report so that the public will have a complete understanding of the Town’s position with respect to financing and construction costs of Town Sewer Districts. Special attention has been given to two areas in particular: (1) the Town’s reliance on New York State Town Law § 231(1) and Greenburgh Town Code Section § 160-2 in assessing the costs of formation and construction of the Sewer District. Town and State statutes have also been supplied for inclusion in the Final Report to correct inaccuracies, add missing details and context, and to show that the actions taken by the Town were in full compliance with what the Town believed were the applicable state laws.

Background, Objective and Scope and Methodology:

The information provided in the section entitled "Background" is essentially accurate and requires no modification. Likewise, the Town offers no changes or corrections to the language contained in either the "Objective" or "Scope and Methodology" sections.
Comments of Local Officials and Corrective Action:

With respect to the section entitled "Comments of Local Officials and Corrective Action," the Town concurs with your Office's interpretation of Section 231 of NYS Town Law and the related conclusion that, at the time the $1,060,500 maximum amount to be expended on Greenburgh Sewer District #4 was approved, the value assigned to the benefit units in the district became fixed and could not be changed. As will be more fully outlined below, the Town's position is that it relied upon subsection (1) of Section 231 as the prescribed method of initially assessing the cost of the sewer project and that, pursuant to subsection (1) of Section 231, benefit unit values are required to remain the same as at the time of financing even after a property is subsequently developed.

Nevertheless, the Town concedes and does not dispute the Report's conclusion that some district residents were overbilled as a result of the second cost increase of approximately $220,000 during assessment period that was the subject of your Office's examination and review. The Town requests, however, that the Final Report more clearly reflect and outline the basis and methodology for determining the amount of overpayment resulting from the second cost increase and the conclusion that the average resident would have saved $427 from years 1989 to 2007. The Town believes that a spreadsheet outlining the calculation that results in the $427 amount, and a discussion of the applicable municipal statute of limitations, would be helpful.

Additionally, although the Town relied upon Section 160-2 of the Town Code which permits the Town to levy a "hook-in" fee to property owners to the costs of capital improvements to the system, the Town recognizes that New York State Town Law could be interpreted as precluding the use of hook-in fees to defray the costs of capital improvements. Thus, the Town will analyze both the provisions of both municipal laws within the coming months in an attempt to harmonize any conflicting provisions.

Construction Costs:

To begin, the Town concedes that, although it sought and received approval from the Office of the State Comptroller for the first request to increase the maximum amount expended on the construction project from $885,430 to $1,060,500, it did not seek a similar approval when project construction costs required a second cost increase of approximately $220,000. Likewise, the Town does not dispute that it failed to conduct a public hearing or adopt an Order prior to authorizing the additional expenditure of funds.

Notwithstanding the lack of State Comptroller approval or a public hearing, however, the Town believes that given the voluminous folders of documents relating to the planning, creation, costs and construction of the sewer project, and additional documents memorializing discussions of the district by Town Departments such as the Town Engineer's Office, Town Clerk's Office, Town Assessor's Office and Town Comptroller's Office, as well as outside professionals such as auditors, accountants and
bond counsel, that discussions of additional project costs did spill over to public
discussions at Town meetings, public work sessions, in the media and the like sufficient
to provide notice to members of the public. Additionally, the award of all professional
service and construction contracts, as well as approval of any and all change orders,
took place during a Public Meeting of the Greenburgh Town Board. As such, the Town
believes that the public was aware of the additional expenditures associated with the
project.

Nonetheless, the Town acknowledges that the failure to seek State Comptroller
approval or conduct a public hearing prior to increasing the maximum amount expended
on the project may have resulted in technical violations of Town and New York State
General Municipal Law. Similarly, the Town acknowledges and agrees that five district
residents, representing a total of 4.1 benefit units, were not charged and did not pay
their fair share of the additional $220,000 necessary to complete construction of the
sewer project. As a result, the Town supports the position in the draft report that these
district residents must be assessed their share of the increased costs and the Town
requests that its recognition of this error, and commitment to correcting it, be added to
the Final Report in the interest of equity and fairness.

Annual Assessments:

As outlined in a long standing prior Opinion issued by your Office (Opinion No.
6592, dated 1954) (See, Exhibit attached), Section 231 of the Town Law prescribes two
alternative methods of assessing the cost of an improvement upon a benefit basis. If
the provisions of subdivision (1) are followed, the entire cost of the project is assessed
against each parcel of land. That special assessment may be paid in a lump sum or
paid over a period of years, but it may not be changed. The annual installment is fixed
at the time the cost is financed. If subdivision (2) is used, no assessment is made of the
entire cost. Instead, the cost is financed and each year a new special assessment roll
is prepared for the purpose of spreading the annual assessment of principal and interest
on the basis of benefit.

As previously mentioned, the Town relied upon Section 231(1) of Town Law in
financing and constructing FA-4 and other Federally Assisted sewer construction
projects in the Town. Thus, it is the Town’s position that, in complying with Section
231(1), it was not permitted to change the unit assessment of a vacant lot assessed at
0.1 units to 1.0, prior to the second cost increase, upon subsequent development of the
property by its owner. The Town believes that its understanding of Section 231(1), and
the text of this section, is reflected and should remain in the Final Report
notwithstanding the Report’s ultimate conclusion.

However, the Town acknowledges and accepts the conclusion of the Draft
Report that since the Town did not notify residents of the assessment amount of
approximately $220,000 for the second cost increase in 1992 it is required to rely upon
subsection (2) of Section 231, which would require the Town Assessor to update the
number of newly created benefit units and assess the second cost increase over all benefit units in the district.

Furthermore, the Town’s reliance on Section 160 of the Greenburgh Town Code should be highlighted and discussed, notwithstanding the apparent conflict with New York State Town Law, (See Exhibits attached), as should the possibility that “hook-in” fees may have been collected pursuant to that section but credited to the General Town Fund as opposed to a Sewer District Fund used to offset and reduce the costs to the FA-4 sewer district.

Finally, the last paragraph of the draft suggests that the Town has not taken any action to address concerns regarding sewer assessments despite being aware of concerns as early as March 2006. This conclusion is not accurate and does not reflect the research conducted and numerous meetings held with Town staff, elected officials and members of the public since March 2006 to address the issues surrounding sewer district assessments. Beginning on January 1, 2007, after conducting several of the aforementioned meetings, the Town instituted new procedures whereby the Town Building Department notifies and works with the Town Assessor, Town Attorney and Commissioner of Public Works to ensure that all plumbing permits and inspections related to sewer connections are documented and communicated so that those departments can assess whether a petition to extend to the district is required or whether a “hook-in” fee should be required to reduce the capital costs of the district. The Town believes this new notification procedure should be identified and described to accurately reflect that the Town has taken steps to ensure that internal controls exist and construction and maintenance costs of improvement districts are borne by all benefited properties.

**Recommendations:**

The Draft Report recommends that the Town annually update benefit units to reflect changes that occur during the year and develop a clear and precise policy that explains the events that would result in a change to a benefit unit and the Town will comply with these recommendations to the extent outlined above. Additionally, as mentioned, the Town instituted new procedures effective January 1, 2007, whereby the applicable Town departments notify and work with one another to ensure that all plumbing permits related to sewer connections result in appropriate costs and charges to residents of the sewer districts. The Town is also scheduled to conduct a review of other sewer districts in the Town to determine if similar problems exist and to take appropriate corrective action, if necessary. The aforementioned procedure of interdepartmental consultation has been implemented to affect all sewer connections in all Districts within the Town, not just for FA-4. Refining the policy and procedures to be implemented by the Departments of Public Works, Building, Assessor and Comptroller is a continuing goal of the Town of Greenburgh and will be the subject of an additional report to be submitted within 90 days after the Final Report issued by your office.
I look forward to your Final Report and stand ready to answer any questions and assist in any way you think would be helpful and appropriate.

Very truly yours,

Paul J. Feiner
Town Supervisor

PJF:ca
Attachments
APPENDIX B

OSC COMMENTS ON THE TOWN’S RESPONSE

Note 1

Information regarding the calculation of the $427 may be found in Appendix C. Different properties experienced various changes, and because of this fact, our estimate cannot be attributed to all properties within the District. Furthermore, it remains the responsibility of the Town to determine the final amounts owed by or due to District residents.

Note 2

The report focuses on the fact that the Town did not comply with explicit statutory requirements of public notice, public hearing, permissive referendum requirements, and OSC approval. Further, we are recommending that the Town implement internal control procedures to avoid this type of failure to comply with statutory requirements in the future. The fact that some discussions of the increase in the maximum project cost may have, incidentally, “spilled over” into public meetings, or that some diligent taxpayers may have noticed the increased charge on their tax bills, is no substitute for Town officials taking active measures to ensure that the affected taxpayers within the District received the proper notice, opportunity to be heard on the increase, opportunity to petition for a referendum, and benefit of the OSC approval process – all of which occur before any additional assessment is imposed, as called for in Town Law.

Note 3

Even though the Town may have implemented new controls in its departments to address this issue going forward, the Town has not taken action to correct its error.
APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our objective was to determine if the Town obtained needed approvals for, and properly assessed, the District’s construction costs for the period January 1, 1979, to September 13, 2007. During the course of our audit, we determined that the Town did not accurately adjust the amounts assessed to taxpayers to reflect changes such as property improvements or subdivisions. As a result, we extended our scope period to January 1, 1979, to review the history of the construction project to determine the extent of the incorrect assessments.

To accomplish the objectives of this audit, and to obtain relevant audit evidence, our procedures included the following:

- We assessed internal controls relevant to our audit objective through interviews with Town officials and employees.
- To determine the total cost of the project, we obtained and examined spreadsheets prepared by the consulting engineering firm during the construction of the District and an audit report performed by a certified public accounting (CPA) firm on the construction grant.
- We examined documentation provided by Town officials regarding litigation brought against the Town by the primary contractor on the construction project, and we examined reconciliations that provided information regarding debt service on the construction costs that the Town failed to bill to District residents.
- We reviewed tax assessments billed during the audit period to determine whether the Town properly assigned construction costs to District residents who subdivided or improved their properties.
- We reviewed the summaries of the Board minutes to identify the actions the Town took to obtain proper OSC approval regarding increasing cost estimates for the construction project.
- In calculating average cost savings, we used the schedule of assessments and tax rates, debt service schedule and tax rolls. Additionally, we reviewed the properties in the District to determine which properties had incurred subdivisions, improvements, or other changes that would affect its status and when the changes occurred. Using the amount of tax assessed for each year per the schedule of assessments and tax rates, we allocated those amounts for each year among the original 71.4 benefit units in accordance with the debt service schedule. We subtracted the amount of debt service to determine the incremental amount attributable to the cost overrun and allocated that figure each year, taking into consideration updates to benefit units due to property status changes. We then determined the amount payable for each account.

---

8 This consulting engineering firm was hired to complete the construction project and provided construction cost estimates during the project.

9 The Town hired a CPA firm to perform a single audit on the Federal construction grant to determine whether the Town used the grant funds appropriately, met the grant’s objectives, and followed required grant procedures.
for each year and compared that to the actual payment each account had made for each year. The difference of actual paid versus the amount that should have been paid results in the cost savings over the period.

We conducted our 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

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
http://www.osc.state.ny.us/localgov/
## APPENDIX E

**OFFICE OF THE STATE COMPTROLLER**  
**DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY**

Steven J. Hancox, Deputy Comptroller  
John C. Traylor, Assistant Comptroller

### LOCAL REGIONAL OFFICE LISTING

<table>
<thead>
<tr>
<th>REGIONAL OFFICE</th>
<th>EXAMINER/CONTACT INFORMATION</th>
<th>COUNTY(S) SERVED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BUFFALO REGIONAL OFFICE</strong></td>
<td>Robert Meller, Chief Examiner</td>
<td>Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>counties</td>
</tr>
<tr>
<td></td>
<td>295 Main Street, Room 1050, Buffalo, New York 14203-2510</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(716) 847-3647 Fax (716) 847-3643 Email: <a href="mailto:Muni-Buffalo@osc.state.ny.us">Muni-Buffalo@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>GLENS FALLS REGIONAL OFFICE</strong></td>
<td>Karl Smoczynski, Chief Examiner</td>
<td>Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, Saratoga,</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>Warren, Washington counties</td>
</tr>
<tr>
<td></td>
<td>One Broad Street Plaza, Glens Falls, New York 12801-4396</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(518) 793-0057 Fax (518) 793-5797 Email: <a href="mailto:Muni-GlensFalls@osc.state.ny.us">Muni-GlensFalls@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>ROCHESTER REGIONAL OFFICE</strong></td>
<td>Edward V. Grant, Jr., Chief Examiner</td>
<td>Cayuga, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne,</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>Yates counties</td>
</tr>
<tr>
<td></td>
<td>16 West Main Street – Suite 522, Rochester, New York 14614-1608</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(585) 454-2460 Fax (585) 454-3545 Email: <a href="mailto:Muni-Rochester@osc.state.ny.us">Muni-Rochester@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>SYRACUSE REGIONAL OFFICE</strong></td>
<td>Eugene A. Camp, Chief Examiner</td>
<td>Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>counties</td>
</tr>
<tr>
<td></td>
<td>State Office Building, Room 409, Syracuse, New York 13202-1428</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(315) 428-4192 Fax (315) 426-2119 Email: <a href="mailto:Muni-Syracuse@osc.state.ny.us">Muni-Syracuse@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>ALBANY REGIONAL OFFICE</strong></td>
<td>Kenneth Madej, Chief Examiner</td>
<td>Albany, Columbia, Dutchess, Greene, Schenectady, Ulster counties</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td></td>
</tr>
<tr>
<td></td>
<td>22 Computer Drive West, Albany, New York 12205-1695</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(518) 438-0093 Fax (518) 438-0367 Email: <a href="mailto:Muni-Albany@osc.state.ny.us">Muni-Albany@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>BINGHAMTON REGIONAL OFFICE</strong></td>
<td>Patrick Carbone, Chief Examiner</td>
<td>Broome, Chenango, Cortland, Delaware, Otsego, Schoharie, Sullivan, Tioga,</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>Tompkins counties</td>
</tr>
<tr>
<td></td>
<td>44 Hawley Street, Binghamton, New York 13901-4417</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(607) 721-8306 Fax (607) 721-8313 Email: <a href="mailto:Muni-Binghamton@osc.state.ny.us">Muni-Binghamton@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>HAUPPAUGE REGIONAL OFFICE</strong></td>
<td>Jeffrey P. Leonard, Chief Examiner</td>
<td>Nassau, Suffolk counties</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td></td>
</tr>
<tr>
<td></td>
<td>NYS Office Building, Room 3A10, Hauppauge, New York 11788-5533</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(631) 952-6534 Fax (631) 952-6530 Email: <a href="mailto:Muni-Hauppauge@osc.state.ny.us">Muni-Hauppauge@osc.state.ny.us</a></td>
<td></td>
</tr>
<tr>
<td><strong>NEWBURGH REGIONAL OFFICE</strong></td>
<td>Christopher Ellis, Chief Examiner</td>
<td>Orange, Putnam, Rockland, Westchester</td>
</tr>
<tr>
<td></td>
<td>Office of the State Comptroller</td>
<td>counties</td>
</tr>
<tr>
<td></td>
<td>33 Airport Center Drive, Suite 103, New Windsor, New York 12553-4725</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(845) 567-0858 Fax (845) 567-0080 Email: <a href="mailto:Muni-Newburgh@osc.state.ny.us">Muni-Newburgh@osc.state.ny.us</a></td>
<td></td>
</tr>
</tbody>
</table>

**DIVISION OF LOCAL GOVERNMENT AND SCHOOL ACCOUNTABILITY**