

Town of Pharsalia

Board Oversight

NOVEMBER 2021



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

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Report Highlights

Town of Pharsalia

Audit Objective

Determine whether the Town Board (Board) in the Town of Pharsalia (Town) provided adequate oversight of financial operations.

Key Findings

The Board did not provide adequate oversight of financial operations, which allowed the former Town Supervisor (Supervisor) to misappropriate Town funds.

- The former Supervisor disbursed more than \$172,000 without Board authorization.
- The former Supervisor inappropriately paid himself more than \$57,000.

As a result of our audit and investigation, the former Supervisor was arrested in 2019 on charges of Grand Larceny in the second degree, Scheme to Defraud, Defrauding the Government, Corrupting the Government and Public Corruption. In June 2021, he pled guilty to Grand Larceny in the Second Degree, as a crime of Public Corruption. He was ordered to pay \$240,000 in restitution, of which he has already paid \$125,000. In September 2021, he was sentenced to serve one to three years in a State prison.

Key Recommendations

- Disburse Town money only after proper Board authorization.
- Perform a thorough annual audit of the financial records, reports and supporting documentation.

Town officials generally agreed with our recommendations and indicated they would initiate corrective action.

Background

The Town is located in Chenango County (County). The Town provides general government services to its residents, and the County owns and operates a landfill located within the Town.

The Town is governed by an elected Board, comprised of the Supervisor and four Board members. The Board is responsible for the general oversight of the Town's operations and finances. The Supervisor is the chief executive officer and the chief financial officer and is responsible for the Town's daily operations including maintaining accounting records, processing payroll and providing the Board with timely and accurate financial information. The Supervisor is also appointed as the County Landfill Monitor and monitors landfill operations for Town purposes.

Quick Facts

Population	593
2018 General Fund Budget	\$165,296
2018 Highway Fund Budget	\$233,700

Audit Period

January 1, 2016 – September 30, 2017.

We extended our scope period back to 1987 to review the stipend agreement between the former Supervisor and the Town; 2006 to review Board minutes for the Board's approval of positions held by the former Supervisor; and 2015 to conduct a three-year analysis of budget estimates.

Board Oversight

How Does the Board Provide Adequate Oversight?

Boards are responsible for ensuring that town resources are adequately safeguarded and accounted for and that financial transactions are properly authorized. Boards should monitor financial operations by conducting a thorough monthly audit of claims and periodically reviewing the supervisor’s financial reports and supporting records. Boards are also required to conduct an annual audit of the accounting records and reports. An audit provides board members an assessment of whether public money is being spent and handled properly, identifies conditions in need of improvement and provides a review of financial operations, which is essential to effective oversight.

Boards are also responsible for annually establishing the salaries for all town positions and ensuring the corresponding amounts are included in the budget; adopting realistic revenue and expenditure estimates in the budget; and monitoring and amending the budget as needed so that appropriations are not overspent. Boards should also ensure that the supervisor prepares and files a detailed annual financial report (AUD) with the Office of the State Comptroller (OSC) each year. The AUD provides the board, OSC, town residents and other interested parties with a tool to monitor and evaluate financial operations.

The Board Did Not Provide Adequate Oversight

The Board did not properly monitor financial operations or provide adequate oversight of the former Supervisor. The Board failed to thoroughly review financial reports and supporting records on a periodic or annual basis, audit all claims for disbursement, establish or include certain salaries in the budget or adopt realistic budgets. As a result, the former Supervisor was able to operate with minimal oversight and routinely disburse funds without Board authorization.

During our scope period, the former Supervisor disbursed 293 unauthorized payments totaling \$172,058, including \$44,769 where the former Supervisor disbursed Town funds for personal purposes. The former Supervisor also inappropriately paid himself \$12,603 in extra salary (Figure 1).

Figure 1: Former Supervisor’s Inappropriate/ Unauthorized Personal Use of Town Money

Home Office Stipend(a)	\$23,433
Personal Credit Card	17,090
Additional Salary	12,603
Personal Utilities	3,595
Non-Town Property – Electric Bills	651
Total	\$57,372

(a) \$2,730 of this amount was allowable per a 1987 Board resolution still in effect; however, none of the payments were presented to the Board for approval.

The Former Supervisor Made Unauthorized and Inappropriate Disbursements

Although the Board audited and approved claims voucher packets each month, the former Supervisor routinely disbursed funds without Board authorization and never presented them for audit or as prepaid amounts the following month. As noted above, during our scope period, the former Supervisor made 293 unauthorized disbursements totaling \$172,058 as follows:

- 155 (totaling \$123,358) were for proper Town expenditures and included payments for Town utilities, health insurance premiums, Town Park septic services, post office box rental fees and W-2 preparation services.
- 115 (totaling \$44,769) were inappropriate and included \$23,433 to the former Supervisor for the use of his home as a Town office, \$17,090 to the former Supervisor's personal credit card, \$3,595 for the former Supervisor's personal utilities and \$651 for the electric bill at a non-Town-owned property. We found a 1987 resolution authorizing a \$130 per month stipend to the former Supervisor for the use of his home as a Town office, but it was never modified. Accordingly, the former Supervisor potentially was authorized to receive \$2,730 as a home office stipend during the audit period. However, since he paid himself without having the Board approve a contract or claims, we consider all of the stipend payments unauthorized and, therefore, inappropriate.
- 23 (totaling \$3,931) paid to hardware stores, restaurants, a consulting service and individuals did not have enough supporting documentation for us to determine whether they were proper Town expenditures.

The former Supervisor provided the Board monthly financial reports, including the general ledger, cash receipts and disbursements activity and a trial balance with the revenues and expenditures to date. In addition, the former Supervisor made verbal assertions about the finances. However, Board members were unaware that these expenditures were being made because they do not thoroughly review the financial activity, bank statements or canceled check images. Instead, the Board accepted the former Supervisor's verbal assertions about the finances and only checked the trial balance to verify there were sufficient revenues to cover monthly expenditures. Further, although the Board meeting minutes indicated that Board members conducted an annual audit for 2016, they failed to adequately review the records and reports provided because the former Supervisor posted the unauthorized disbursements to the accounting records.

Board members told us they approved the former Supervisor to pay certain items prior to audit.¹ However, we did not find a resolution authorizing these payments,

¹ The Supervisor may make payments in advance of audit for public utility services, postage, freight and express charges, if authorized by Board resolution. However, these claims should be audited and included as prepaid amounts the following month.

they were not presented on the next abstract as prepaid amounts, and many of these items were not allowed to be paid in advance of audit.

The former Supervisor told us that, for a number of years, he did not collect a salary or a stipend for the use of his home. He stated that the payments to his personal credit card were the Town's way of paying him the amount owed for these years. There was no evidence to support that the Town owed the former Supervisor any money or that the Board approved this method of payment. Further, this would not be a transparent or proper method to reimburse the former Supervisor for any amounts owed. We did not find any support that the former Supervisor was authorized to pay his personal utilities. As for the non-Town-owned property, the former Supervisor told us the Town was storing records there. Town officials told us that the former Supervisor operated a personal business from this address and conducted Town business there in the past. However, Board members were unaware that utilities were being paid at this address with Town funds.

The Former Supervisor Received Unauthorized and Inappropriate Salaries

The Board appointed the former Supervisor as the Town Health Officer, County Landfill Monitor, Town Landfill Administrator, Assistant Dog Warden (2017) and Town Historian (2017). The Board established the salary for his role as Town Supervisor for \$6,240 in 2016 and \$6,365 in 2017. By law, the Supervisor also serves as the Town's budget officer and the Board approved \$210 as the salary rate for this role for both the 2016 and 2017 years. However, we found that the former Supervisor inappropriately paid himself \$6,673 for fiscal year 2016 and \$5,930 as of September 2017. The former Supervisor reported an income of \$13,123 to the Internal Revenue Service for 2016. This amount only included his salary payments; it did not include the unauthorized fringe benefits he paid himself, such as the home office stipend and payments for his personal expenses.

The former Supervisor also told us that he paid himself a salary of \$6,200 as County Landfill Monitor and \$800 as Health Officer each year. The Board was unaware that the former Supervisor was paying himself for these positions. The former Supervisor did not transparently include these salaries in the budget; instead, he charged the payments to the budget officer and landfill closing contractual and personal service line items. The Board failed to recognize these payments on the monthly financial reports because it did not thoroughly monitor financial operations.

Furthermore, the former Supervisor, as a member of the governing board, cannot hold positions for which he has authority to appoint or for which a law expressly prohibits, so we question the propriety of the former Supervisor simultaneously holding the positions of Town Landfill Administrator, County Landfill Monitor,

Historian and Assistant Dog Warden. Additionally, Public Health Law specifically prohibits a member of the governing board from being appointed as health officer, and it is not a required Town position if the County has formed a county health district, which occurred here.

The Board Did Not Monitor and Evaluate Financial Operations

The Board adopted unrealistic budgets for fiscal years 2015 through 2017 that were not based on prior results of operations. Actual expenditures exceeded budgeted appropriations over this period by average variances of 25 percent (\$39,223) in the general fund and 33 percent (\$74,361) in the highway fund due to the former Supervisor's unauthorized payroll, health insurance and retirement expenditures and not appropriating enough for planned road repairs and equipment purchases.

The Board relied on the former Supervisor and did not question the appropriation estimates he provided each year even though prior trends of actual expenditures indicated these estimates were insufficient. The former Supervisor was aware of the additional revenues received each year from the County landfill operations and sales tax revenues and, therefore, was able to mostly finance these expenditures without budgeting for them. However, if these budgeting practices continue, the Board may need to raise taxes or reduce services in future years.

Lastly, the former Supervisor did not prepare or file the AUD with OSC for fiscal years 2015 through 2017. The former Supervisor told us that he could not get the 2015 reports to balance on the system, which prevented him from filing 2015 and subsequent years. The Board was unaware that the former Supervisor did not file these required reports.

Due to the Board's inadequate oversight, its members did not recognize that the former Supervisor inappropriately handled public funds. As a result, Town resources were not adequately safeguarded and accounted for and financial transactions were not properly authorized.

In 2019, the former Supervisor was arrested and charged with Grand Larceny in the second degree, Scheme to Defraud, Defrauding the Government, Corrupting the Government and Public Corruption. In June 2021, he pled guilty to Grand Larceny in the Second Degree, as a crime of Public Corruption. As part of the plea agreement, he was ordered to pay \$240,000 in restitution, of which he has already paid \$125,000. In September 2021, he was sentenced to serve one to three years in a State prison.

What Do We Recommend?

The Board should:

1. Contact the New York State Attorney General's Office to seek advice regarding potentially incompatible and prohibited positions if it decides to continue to allow the Supervisor to hold simultaneous positions.
2. Approve the salary rates for all Town positions annually.
3. Periodically review financial records, reports and supporting bank statements, including canceled check images.
4. Perform a thorough annual audit of the financial records, reports and supporting documentation as described in our publication: *Fiscal Oversight Responsibilities of the Governing Board*.²
5. Adopt budgets that contain all planned revenue and expenditure estimates and monitor financial activity to ensure that operations closely mirror the budget.
6. Ensure that the Supervisor prepares and files the AUD with OSC annually.

The Supervisor should:

7. Disburse Town money only after proper Board authorization.
8. Prepare and file the AUD with OSC annually.

² http://www.osc.state.ny.us/localgov/pubs/lmgm/fiscal_oversight.pdf

Appendix A: Response From Town Officials

Town of Pharsalia, NY

PO Box 39 East Pharsalia, NY 13758 Phone: (607) 373-3430 e-mail: Pharsalia@Co.Chenango.NY.US

11/11/21

To whom it may concern,

With regards to the provided NYS OSC audit report for the Town of Pharsalia; the report has been received, reviewed and acknowledged by all members of the town board including the town clerk and myself. We agree with the findings and will commit to submitting a corrective action plan referencing the recommendations provided by the NYS OSC to remedy any gaps in our process. We appreciate your guidance in this matter and look forward to realigning our town with the proper procedures to reduce the risk of this happening to our town in the future.

Respectfully,

Jeremiah Micklas, Town Supervisor



Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and Board members and reviewed the Town's policies and procedures, Board minutes, adopted budgets, financial records and reports to gain an understanding of the Town's financial operations.
- We traced all disbursements on the bank statements to the approved abstract and payroll register and selected all disbursements not approved. We traced all unapproved disbursements to the general ledger records for accuracy and to supporting documentation to determine whether the payments represented proper Town expenditures.
- We compared the salaries paid to all Town officials and employees during the scope period to the Board-approved rates to determine whether the officials and employees were properly paid.
- We compared duties performed by key Town officials per the Board's organizational meeting minutes to determine whether duties were compatible.
- We reviewed budget estimates for the last three years to determine whether the Board adopted realistic budgets and compared budgets to actual results of operations to determine whether the Town's budget was overspent.

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

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

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

www.osc.state.ny.us/local-government/publications

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

www.osc.state.ny.us/local-government/fiscal-monitoring

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

www.osc.state.ny.us/local-government/publications

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

www.osc.state.ny.us/local-government/resources/planning-resources

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

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

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

www.osc.state.ny.us/local-government/publications

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

www.osc.state.ny.us/local-government/academy

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