

OFFICE OF THE NEW YORK STATE COMPTROLLER



DIVISION OF LOCAL GOVERNMENT  
& SCHOOL ACCOUNTABILITY

# Village of Lyons

## Financial Condition of the Water and Sewer Funds

### Report of Examination

Period Covered:

June 1, 2008 — January 25, 2011

2011M-61



Thomas P. DiNapoli

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# State of New York

## Office of the State Comptroller

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### Division of Local Government and School Accountability

August 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 of Trustees governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Village of Lyons, entitled Financial Condition of the Water and Sewer Funds. 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*

## Introduction

### **Background**

The Village of Lyons (Village) is located in the Town of Lyons, Wayne County, and has a population of approximately 3,600 residents. The Village is governed by an elected Board of Trustees (Board) comprising the 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 and sewer user charges, and issue debt. For the 2010-11 fiscal year, budgeted appropriations totaled approximately \$2.9 million in the general fund, \$650,000 in the water fund, and \$600,000 in the sewer fund. The general fund is funded primarily by real property tax revenue, and the water and sewer funds primarily from user charges.

The Village provides water services to approximately 1,600 customers and sewer services to approximately 1,500 customers. The Village has a contract with the Wayne County Water and Sewer Authority (WCWSA) to purchase at least 200,000 gallons of water per day, and also pumps approximately 270,000 gallons of water per day<sup>1</sup> from its own wells and processes it at the Village's water treatment plant. The Village is currently negotiating a contract to purchase its entire water supply from WCWSA. The Village will still be responsible for water distribution and maintenance of the Village's water infrastructure.

The Village Clerk-Treasurer and Deputy Clerk-Treasurer are responsible for maintaining water and sewer accounting records, while the water and sewer account clerk is responsible for inputting meter readings and maintaining individual customer accounts.

### **Objective**

The objective of our audit was to review the financial condition of the water and sewer funds. Our audit addressed the following related question:

- Did the Board maintain sufficient fund balances in the water and sewer funds to finance current operations?

### **Scope and Methodology**

We examined the Village's financial condition for the period June 1, 2008 to January 25, 2011. We also reviewed certain financial statement information for periods prior to June 1, 2008 to provide historical perspective.

<sup>1</sup> In the 2009-10 fiscal year

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 B of this report.

**Comments of  
Local 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 take, corrective action.

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's office.

## Financial Condition

The Board is responsible for making sound financial decisions that are in the best interest of the Village and the taxpayers that fund its operations. This responsibility requires Board members to balance the level of services desired and expected by Village residents with the ability and willingness of the residents to pay for such services. The Board must adopt structurally balanced budgets for all operating funds that provide for sufficient recurring revenues to finance recurring expenditures. The annual budget for each fund is expected to provide a reasonable estimate of appropriations, revenues, and other financing sources. Additionally, Village officials must ensure that the level of fund balance – i.e., the accumulated difference between revenues and expenditures from prior years – is sufficient to provide available cash to pay vendors and employees throughout the year. A deficit fund balance may indicate that the municipality is not generating sufficient revenues to pay its operating expenses, and leaves no monies available for contingencies.

Both the water and sewer funds have experienced deficit fund balances over the past three years. At the end of the 2009-10 fiscal year, the water fund had an unreserved, unappropriated fund balance deficit of \$130,066, and the sewer fund a deficit of \$94,877. In addition, we identified unaccounted-for water loss of up to 42 percent of water purchased. Village officials did not raise water and sewer rates sufficiently to eliminate the deficits, and had to advance moneys from the general fund to provide cash for operations. However, these advances – which averaged a combined \$207,000 in each of the three fiscal years 2007-08 through 2009-10 – were not properly recorded and were made without prior Board approval as required by law.

However, the Village has taken steps recently to reduce the deficit fund balances over the next three years. For example, with a planned decommissioning of its water treatment plant, the Village projects an eventual savings of \$2.2 to \$3.6 million in capital improvements to the plant; and the 2011-12 preliminary budget includes \$60,000 in the water fund and \$25,000 in the sewer fund which the Village plans to apply to the fund deficits.

### Water Fund

Sound business practice requires that Village officials periodically review water rates to help ensure they are sufficient to maintain water services at acceptable levels. Additionally, the periodic comparison of water produced to water billed is an essential control to identify water loss percentages and address losses due to leaks, malfunctioning equipment, or insufficient billings. Unaccounted-for

water (the difference between the amount produced and purchased, and the amount billed to customers) includes losses from meter errors, customer meter under-registrations, unmetered customers, accounting errors, illegal connections, and leaks. Also, municipal usage that is often unmetered may include water for firefighting and flushing the water or sewer system. A large volume of unaccounted-for water is a warning sign of potentially significant problems.

The Village's water fund has incurred repeated deficits in its unreserved, unappropriated fund balance due to insufficient increases in water rates and excessive water loss.

**Fund Balance** — A reasonable level of fund balance is key to financing Village operations and providing sufficient cash flow for paying bills. An adequate level of fund balance is especially important in the event of an annual operating deficit.

The water fund has been in deficit for the past three years, as Table 1 shows.

**Table 1: Water Fund**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11 <sup>a</sup>
Metered Water Sales	\$638,306	\$602,281	\$556,124	\$507,267
Other Revenues	\$146,835 <sup>b</sup>	\$35,745	\$34,167	\$33,633
<b>Total Revenues</b>	<b>\$785,141</b>	<b>\$638,026</b>	<b>\$590,291</b>	<b>\$540,900</b>
Less: Total Expenses	\$650,227	\$637,793	\$614,393	\$613,000
<b>Operating Surplus/(Deficit)</b>	<b>\$134,914</b>	<b>\$233</b>	<b>(\$24,102)</b>	<b>(\$72,100)</b>
<b>Unreserved, Unappropriated Fund Balance at Year End</b>	<b>(\$108,298)</b>	<b>(\$105,930)</b>	<b>(\$130,066)</b>	<b>(\$202,166)</b>

<sup>a</sup> Projected  
<sup>b</sup> Includes one-time revenue of \$104,500

The 2007-08 unreserved, unappropriated fund balance included one-time revenue of \$104,500 from the sale of Junius Ponds, previously a source of water for the Village, in 2008. Without this infusion the unreserved, unappropriated fund balance deficit would have doubled. Although expenses have decreased over the above period, revenues also declined, leaving a significant deficit fund balance. Additionally, the Village is projecting an operating deficit of \$72,100 for the 2010-11 fiscal year, worsening this fund's accumulated deficit.

Village officials told us a significant reason for the water fund deficits was that several large manufacturing customers left the Village, which contributed to the reduction in metered water sales. As a result of the deficits, the water fund does not have sufficient cash, and the Village had to use resources from the general fund to finance current operations (see "Interfund Advances").

Water Rates — In spite of the recent fund balance deficits, the Village has not increased water rates since April 2006 and generally overestimates budgeted water sales. For the three fiscal years ended 2010-11, actual metered water sales were 91 percent, 87 percent, and 82 percent<sup>2</sup> of the respective budgeted amounts. The fiscal year 2011-12 preliminary water fund budget shows an increase in metered water sales of approximately \$166,000 over 2010-11, which would require raising the minimum water rates by at least 30 percent effective July 1, 2011. As of April 2011, the Board has not taken any action to increase rates. Without action by the Board to adopt significant rate increases and monitor actual results, there is a continued risk that water revenue will remain insufficient to reduce the accumulated deficit.

Water Loss — The U.S. Environmental Protection Agency (EPA) has established an industry goal of no more than 10 percent for unaccounted-for water. The Village is required to provide annual reports to the New York State Department of Health, including water accountability information. The periodic comparison of water produced to water billed is an essential control to help identify water loss and address the causes.

Since January 2007, the Village has experienced water loss ranging from 28 to 47 percent, considerably more than the EPA goal of a maximum 10 percent. In the 2009 annual water report, the Village reported a water loss of 40 percent. We calculated the water loss at the October 2010 billing (for water purchased and produced from July through September) at 42 percent, and the water loss at the January 2011 billing (for water purchased and produced from October through December) at 28 percent. In the past two years, the Village has spent close to \$350,000 on unaccounted-for water and is projected to lose another \$140,000 in the 2010-11 fiscal year.

Recently the Village has taken steps to address the fund balance deficit and unaccounted-for water loss. The 2011-12 preliminary budget includes a \$60,000 reduction in the water fund deficit balance, to be accomplished by the planned sale of surplus equipment, a planned increase in metered water sales, and the planned decommissioning of the water plant, which will reduce operating costs. While shutting down the water plant has associated costs,<sup>3</sup> Village officials estimate that, over the long term, it will also save approximately \$2.2 to \$3.6 million in needed capital improvements to the plant. Further, in October 2010, the Village's Department of Public Works discovered a considerable leak contributing to an 83,000-gallon-per-day loss.

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<sup>2</sup> Projected for 2010-11

<sup>3</sup> With the planned purchase of the Village's entire water supply from WCWSA, the increase in purchased water cost is estimated at \$335,800 per year (based on the 2011-12 water fund budget). An engineering study also determined that decommissioning the water processing plant will incur one-time costs of \$39,000.

**Sewer Fund**

User charges constitute the major source of revenue for the sewer fund. Like the water fund, the sewer fund has also ended the past three years with deficits in its unreserved, unappropriated fund balance. This deficit was reduced by 43 percent over that time, due in part to a 40 percent rate increase in 2008.<sup>4</sup>

**Table 2: Sewer Fund**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11*
Sewer Rents	\$534,671	\$570,409	\$559,438	\$575,866
Other Revenues	\$26,403	\$27,295	\$15,457	\$12,834
<b>Total Revenues</b>	<b>\$561,074</b>	<b>\$597,704</b>	<b>\$574,895</b>	<b>\$588,700</b>
Less: Total Expenses	\$588,535	\$571,889	\$548,026	\$514,000
<b>Operating Surplus/(Deficit)</b>	<b>(\$27,461)</b>	<b>\$25,815</b>	<b>\$26,869</b>	<b>\$74,700</b>
<b>Unreserved, Unappropriated Fund Balance at Year End</b>	<b>(\$165,232)</b>	<b>(\$129,542)</b>	<b>(\$94,877)</b>	<b>(\$20,177)</b>

\* Projected

As a result, the sewer fund did not have sufficient cash resources and had to use moneys from the general fund to finance operations (see “Interfund Advances”).

However, the Village is projecting an operating surplus of \$74,700 for the 2010-11 fiscal year, primarily due to reduced expenditures of approximately \$85,530 below the amount budgeted for the year. The 2011-12 preliminary budget also includes an additional \$25,000 in estimated sewer fund revenue, above the amount appropriated, through a planned increase in sewer charges.

**Interfund Advances**

General Municipal Law (GML) provides the conditions under which a municipality can temporarily advance funds from one fund to another, and requires that repayment be made no later than the close of the fiscal year in which the advances were made, with interest if the funds have different tax bases. The Board is responsible for approving all interfund advances, and must ensure that all temporary interfund advances are repaid by fiscal year end, with interest where applicable. By monitoring individual cash balances in each fund and preparing cash flow projections, Village officials can identify cash advance needs in a timely manner. They must prepare and submit necessary cash advances to the Board for prior approval and record these advances in the accounting system when they are made.

Due to the fund balance deficits, the Village’s sewer and water funds have been dependent on advances from the general fund. These

<sup>4</sup>Following a 50 percent increase in 2006

advances occurred informally because the Village used a common savings account for the general, water, and sewer funds. Monies were disbursed from the common bank account throughout the year to pay for expenditures for funds that lacked sufficient cash. These interfund advances were not recorded as such, but instead were recorded as normal expenditures which resulted in negative cash balances in the general ledger accounts (Table 3). Because these advances were not properly identified in the records, the Board was unaware of them and did not approve them.

**Table 3: Cash Balances (Advances From General Fund)**

	FY 2007-08	FY 2008-09	FY 009-10
Water Fund	(\$58,456)	(\$88,213)	(\$114,928)
Sewer Fund	(\$145,054)	(\$123,325)	(\$91,846)
<b>Total</b>	<b>(\$203,510)</b>	<b>(\$211,538)</b>	<b>(\$206,774)</b>

As a result of the Village officials' failure to monitor cash balances and comply with statutory requirements for making cash advances between governmental funds, the Board was unable to effectively monitor the Village's current financial position and make sound financial decisions.

### **Recommendations**

1. The Board should monitor its plan to eliminate the fund balance deficits and improve the financial condition of the water and sewer funds within a reasonable time period.
2. Village officials should continue to reconcile the amount of water purchased and produced with the amount billed and identify and remedy potential causes of significant discrepancies in a timely manner.
3. Village officials should ensure that all interfund advances are submitted to the Board for approval before being made, and properly recorded in the accounting system.
4. The Board should review all outstanding interfund advances and take action to repay them as soon as possible.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



**VILLAGE OF LYONS**  
**76 WILLIAM STREET**  
**LYONS, NEW YORK 14489-1586**  
**315-946-4531**  
**TDD 1-800-662-1220**

July 18, 2011

Edward V. Grant, Jr., Chief Examiner

New York State Office of the State Comptroller  
The Powers Building  
16 West Main Street Suite 522  
Rochester, N.Y. 14614-1608

RE: Written response to draft audit examination of water and sewer funds

Dear Mr. Grant:

History of deficit position of the Village Water and Sewer Fund since 2006

1. 2006 Water rate increase resulting in an increase in water rents of \$37,464.
2. 2008 Reduction in water rents collection \$65,503 due to local industry Slowdown in usage. Parker-Hannifin purchased approximately 30% of water sold in the Village of Lyons.
3. 2009 an additional \$36,025 loss in revenues due to closing of local industry
4. Fall of 2009 the Wayne County Economic Development Agency authorized a water and sewer rate study for the Village of Lyons.
5. Study received in June 2010 and finalized August 2010
6. Fall 2010 – present - Study and determination to decommission water plant and purchase all water from the Wayne County Water Authority.
7. New water and sewer rates are presently being reviewed and local laws prepared for the adoption of the new rates.

Sewer rates were increased in 2008. Rents were not as severely effected as water rents because Parker-Hannifin paid only a percentage (15%) based on water consumed because it was used as cooling water and discharged thru permit to a local water access to the NYS Canal.

We concur with the findings that the water and sewer funds have experienced deficit fund balances over the last three years . Increase in rates were put on hold during this period due to the Board

studying their best option whether to remain producing water , which would require a significant capital project, or purchasing 100% of water needs from the Wayne County Water Authority. In the spring of 2011 the Board resolved to purchase the Village water requirements from the Wayne County Water Supply and we can now accurately predict the water rates which will balance the fund.

Accounting for the water and sewer fund deficits of approximately (\$207,000) were through negative cash balances each month and fiscal year ending. We agree the monthly balances should be reconciled with the General Fund by the Board and shown as cash loans to the water and sewer funds, with the appropriate due to the General Fund until the deficits are taken care of by annual appropriations.

We agree that our aged water infrastructure is developing water leakage. Weekly we monitor water pumped and purchased . Water sold and water pumped and purchased are recorded quarterly giving us an estimated percentage of loss. The daily monitoring alerts us to any significant water leakage problems.

Interfund advances were only identified by cash deficits in the Water and Sewer Fund instead of by resolution authorizing the cash advances. Accounting balances were provided monthly.

Review of the Draft Audit Report does not find any significant findings that we disagree with. The majority of the recommendations are already being addressed and will be further clarified in the

Corrective Action Plan which will be submitted in the time frame recommended by your office.

If you have any questions please contact me.

Sincerely,



Corrine Kleisle, Mayor

c/

cc: Village Board

Clerk-Treasurer

## **APPENDIX B**

### **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 condition and the control environment, cash receipts and disbursements, cash management, justice court operations, water and sewer rents, purchasing, payroll and personal services, and information technology.

During the initial assessment, we interviewed appropriate Village officials, performed limited tests of transactions and reviewed pertinent documents, such as Village policies and procedures manuals, Board minutes, and financial records and reports.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided on the reported objectives and scope by selecting for audit those areas most at risk. We selected the financial condition of the water and sewer funds for further testing.

To accomplish our audit objective and obtain valid evidence, our procedures included the following:

- We analyzed the change in fund balance of the Village's water and sewer funds for the 2005-06 through 2009-10 fiscal years to identify fund deficit trends, and evaluated major factors contributing to the operating deficits.
- We reviewed variances between budgeted amounts and actual results for the water and sewer funds.
- We inquired as to the Board's plan of action to address the deteriorating financial condition of the water and sewer funds. We also inquired about the Village's plan to close down the water treatment plant and subsequent purchase of all water from the Wayne County Water and Sewer Authority. Assuming all water will be purchased through the WCWSA, we projected the Village's future costs based on information and projections provided by Village officials.

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 C**

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## **GENERAL MUNICIPAL LAW – SECTION 35**

### **FILING OF REPORT OF EXAMINATION AND NOTICE THEREOF**

#### **Section 35. Filing of report of examination and notice thereof.**

1. A report of such examination shall be made and shall be filed in the Office of the State Comptroller and in the office of the clerk of the municipal corporation, district, agency or activity, or with the secretary if there is no clerk. An additional copy thereof shall be filed with the chief fiscal officer, except that in the case of a school district, such additional copy shall be filed in the office of the chairman of the board of trustees, the president of the board of education or the sole trustee, as the case may be. When so filed, each such report and copy thereof shall be a public record open to inspection by any interested person.

2. (a) Within ten days after the filing of a report of examination performed by the Office of the State Comptroller, a report of an external audit performed by an independent public accountant or any management letter prepared in conjunction with such an external audit with the clerk of the municipal corporation, district, agency or activity, or with the secretary if there is no clerk, he shall give public notice thereof in substantially the following form: "Notice is hereby given that the fiscal affairs of (name of municipal corporation, district, agency or activity) for the period beginning on ..... and ending on ....., have been examined by (the Office of the State Comptroller or an independent public accountant), and that the (report of examination performed by the Office of the State Comptroller or report of, or management letter prepared in conjunction with, the external audit by the independent public accountant) has been filed in my office where it is available as a public record for inspection by all interested persons. Pursuant to section thirty-five of the general municipal law, the governing board of (name of municipal corporation, district, agency or activity) may, in its discretion, prepare a written response to the (report of examination performed by the Office of the State Comptroller or the report of external audit or management letter by independent public accountant) and file any such response in my office as a public record for inspection by all interested persons not later than (last date on which response may be filed)."

(b) Except as otherwise provided for a common school district, the clerk or secretary if there is no clerk, shall cause such notice to be published at least once in the official newspaper, or if there be no official newspaper, in a newspaper having general circulation in the municipal corporation, district or area served by the agency or activity. If there be no newspaper having general circulation, the clerk or the secretary if there is no clerk, shall post such notice conspicuously in ten public places in the municipal corporation, district or area served. In a common school district which maintains a home school, the clerk shall post such notice on the front door of the schoolhouse. In a common school district which does not maintain a home school, the clerk shall post such notice conspicuously in at least five public places in the district.

(c) The clerk of every municipal corporation, district, agency and activity or the secretary if there is no clerk, shall file in his office proof of the publication or posting of notices pursuant to this section. The proof so filed shall be in such form as may be prescribed by the State Comptroller.

(d) In each school district subject to the jurisdiction of a district superintendent, under the provisions of Article forty-five of the Education Law, such district superintendent shall ascertain that the public notice required by this subdivision has been published or posted, as the case may be.

3. The clerk, or secretary if there is no clerk, shall present the report of examination to the governing body of the municipal corporation, district agency or activity for its consideration at the first meeting thereof held after the filing of the report with the clerk or secretary.

4. (a) The governing board or other board, officer or employee of the municipal corporation, district, agency or activity receiving a report of an external audit performed by an independent public accountant or a management letter prepared in conjunction with such an audit shall file in the office of the clerk of the municipal corporation, district, agency or activity, or with the secretary if there is no clerk, and shall furnish to the comptroller, a copy of the report or letter within ten days after receipt. If the report or letter is not received by the governing board, a copy shall be provided to the governing board within three days after receipt by any other board, officer or employee receiving the same.

(b) (1) Not later than ninety days after presentation to the governing board of a report of examination performed by the Office of the State Comptroller, or receipt by the governing board of any report of an external audit performed by an independent public accountant or any management letter in conjunction with such an audit, the governing board may, in its discretion, provide to the comptroller, and file in the office of the clerk, or with the secretary if there is no clerk, of the municipal corporation, district, agency or activity, a written response to the findings and recommendations, if any, in the report or letter. In the case of municipal corporations, districts, agencies or activities subject to examination by the commissioner of education, any written response shall also be provided to such commissioner.

(2) A written response prepared pursuant to subparagraph one of this paragraph shall be in such form as may be prescribed by the comptroller and shall include, with respect to each finding or recommendation, a statement of the corrective actions taken or proposed to be taken, or if corrective action is not taken or proposed, an explanation of the reasons therefor. Any such written response shall also include a statement on the status of corrective actions taken on findings or recommendations contained in any previous report of examination, or report of an external audit, or any management letter prepared in conjunction therewith, by an independent public accountant for which a written response was required. All officers and employees of the municipal corporation, district, agency or activity shall fully cooperate with the governing board in the preparation of the response by the governing board.

(c) The provisions of this subdivision shall not apply to any city having a population of one million or more.

NOTE: Proof of publication shall be filed in the office of the clerk or secretary of the municipality or district. You are not required to file a copy of proof of publication with the Office of the State Comptroller.