



City of Binghamton

Apparent Misappropriation of Parks and Recreation Department Funds

Report of Examination

Period Covered:

January 1, 2007 — January 5, 2013

2013M-169



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2013

Dear City 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 Common Council 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 City of Binghamton, entitled Apparent Misappropriation of Parks and Recreation Department 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 City of Binghamton (City) is located in Broome County and has 47,400 residents. The seven-member Common Council is the City's legislative branch. The Mayor is the City's chief executive officer and the Comptroller is the chief fiscal officer. The Second Class Cities Law governs City operations by outlining the powers and duties of City management, including those of the Comptroller and the Mayor. The Mayor is responsible for supervising, directing, and controlling the administration of all City departments. The Comptroller is responsible for auditing and paying vouchers, managing cash, processing payrolls, and overseeing all accounting and budgeting preparation for the City. The City employs a Deputy Comptroller and Treasurer to assist the Comptroller with his duties.

The City has numerous departments, including a Parks and Recreation Department (Department). The Department is operated by a Director of Parks and Recreation (Director). The former Director resigned in November 2012. A new Director was appointed on March 4, 2013. The City employs an Assistant Director of Parks and Recreation (Assistant Director) to assist the Director with all his duties. The Department also employs a senior typist who assists with the office duties.

The Department offers various adult recreation programs including volleyball, basketball, and softball leagues. It also operates various youth programs including baseball and softball leagues, and safety and summer fun programs. It also hosts a tennis tournament during the summer. The Department is responsible for maintaining and operating the City's parks, carousels, and swimming pools. The Department's total budgeted expenditures for the 2013 year were \$1.76 million.

John Whalen was a City employee for 39 years. He was scheduled to retire from his position as the Director of Parks and Recreation in March 2013 but resigned on November 27, 2012, when irregularities related to cash receipts and disbursements were identified that were directly related to his operation of the Department. On April 11, 2013, John Whalen was charged with grand larceny in the second degree, a class "C" felony. An investigation continues with the Broome County District Attorney's office and the City of Binghamton Police Department.

Objective

The objective of our audit was to determine if the former Director properly deposited receipts and that disbursements were for appropriate Department purposes. Our audit addressed the following related question:

- Did the former Director ensure that receipts were deposited timely and intact and disbursements made were for proper Department purposes?

**Scope and
Methodology**

We examined the internal controls over the Department’s cash receipts and disbursements for the period of January 1, 2007, to January 5, 2013. Specifically, we reviewed the cash receipts and disbursements transactions for the bank account controlled by the former Director.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with City officials and their comments, which appear in Appendix A, have been considered in preparing this report. City officials generally agreed with our recommendations. Appendix B includes our comment on the issue raised in the City’s response letter.

City officials have 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 City Council to make this plan available for public review in the City Clerk’s office.

Apparent Misappropriation of Program Moneys

The proper accounting for moneys collected on behalf of the City is incumbent on each respective department head and the City's Comptroller. The City Code stipulates that all moneys collected by any officer or employee be transferred to the chief fiscal officer within one day of receipt. The Code further assigns the Comptroller the responsibility for internal controls over the City's financial activities.

The former Director operated an extensive adult and youth recreation program from which he misappropriated program funds totaling at least \$107,984. Specifically, we found that the City could not account for \$36,234 in fees that should have been paid for the various recreation programs and employee uniforms. In addition, the former Director made \$71,700 in payments that either did not appear to be related to the program, or were to his family members or his own personal creditors, or were for other purposes not related to proper program functions.

The former Director deposited more than \$340,000 and made 429 disbursements totaling approximately \$344,000 from a separate bank account titled "Binghamton City Sport Leagues" for the period of January 1, 2007, to November 27, 2012.¹ He was one of the two signatories on this account,² and the bank statements were mailed to his home address. Even though the account was titled in the City's name and used the City's Federal identification number, no one in the City knew this bank account existed because none of this activity was recorded in the City's accounting records. On November 27, 2012, City officials transferred the balance of \$5,860 to the City's operating account.

Receipts

Department staff collected fees for various adult recreation programs, tennis tournament registrations, and sponsorships for the City's youth recreation programs. The staff placed the collections in an envelope that the former Director would then deposit into a bank account. In addition, Department staff rarely documented these collections adequately, and no one outside the Department provided any oversight of this financial activity as it remained outside of the normal financial routines of the Comptroller's Office. Additionally, seasonal employees had to purchase uniform shirts from the former Director. However, we did find that moneys collected for two recreation programs (pool fees and registration fees for a safety program for pre-kindergarteners and kindergarteners) were properly remitted to the City Treasurer and deposited into a City bank account.

¹ As of January 1, 2007, there was a beginning balance of almost \$6,450 in a separate bank account titled "Binghamton City Sport Leagues."

² We only found checks with the former Director's signature, not the other signatory.

We reviewed all available documentation related to Department cash receipts for the audit period.³ The Department maintained team rosters or schedules for the majority of the activities. In addition, for the tennis tournaments, registration forms were on file. There were no cash receipt records for the purchases of uniform shirts. Table 1 shows our comparison of the amounts to be collected (based on team rosters or schedules) to amounts paid by those teams (based on team confirmations or City records), to amounts actually deposited.

Table 1: Recreation Department Revenues and Receipts 2007-2012				
	Amount to be Collected	Amount Paid	Amount Deposited^a	Shortage
Softball	\$259,155	\$259,150	\$246,510	(\$12,645)
Youth Sponsorships	\$40,200	\$26,025	\$26,025	(\$14,175)
Basketball	\$23,050	\$23,030	\$20,775	(\$2,275)
Uniform Shirt Sales	\$13,347	n/a	\$6,594	(\$6,753)
Volleyball	\$10,980	\$10,955	\$10,925	(\$55)
Tennis Tournament	\$1,098	\$868	\$767	(\$331)
Totals	\$347,830	\$320,028	\$311,596	(\$36,234)

^a These deposits only include those related to the specific program listed within the Department when we could find records. Deposits appeared in the deposit composition that could not be traced back to records in the Department. Therefore, we could not determine that all of these items were properly deposited. These deposits included repayments of loans, fees for basketball camps and clinics, donations, and purchases of tee-shirts.

We also found that money was deposited that was not related to any recreation program. Instead, these were repayments totaling \$1,240 from two departmental employees for loans made to them (see Disbursements section) and repayments totaling \$2,500 from one the former Director's sons for loans made to him. Additionally, the former Director deposited \$420 from his personal account and approximately \$400 was deposited from two other organizations, the Southern Tier Football Association and St. John's Catholic Youth Organization, for which he served as Treasurer.

Disbursements

We reviewed all available documentation related to Department disbursements for the audit period.⁴ The former Director drew 429 checks and made other withdrawals, totaling more than \$344,000, from the same bank account in which he deposited money. While some of these disbursements appeared to be related to expenditures of the various recreation leagues (based on the vendors' names), many disbursements were not. Seventy-one payments, totaling approximately \$112,900, were supported by invoices and other documentation indicating that they were legitimate Department expenditures. The remaining 358 disbursements, totaling \$231,260,

³ See Appendix C for details of the information reviewed

⁴ See Appendix C for details of the information reviewed

were not supported. These included 240 disbursements, totaling approximately \$71,750, which did not appear to be legitimate City expenditures. For example, we found the following:

- Twenty-seven payments, totaling \$9,100, were made to the former Director's sons.
- Five payments, totaling \$1,900, were made to two departmental employees.
- Forty-seven payments, totaling \$17,900, were made to the former Director's mortgage company.
- Eight payments, totaling \$3,500, were made to a student loan company for the former Director's son's loans.
- Six payments, totaling \$2,200, were made for the former Director's car lease.
- Four payments, totaling \$4,200, were made to a real estate company for a summer rental for the former Director's vacation home.
- Forty-two checks, totaling \$7,200, were written to cash or were blank.
- Four wire transfers, totaling \$6,950, were made to the former Director's son, and one direct withdrawal, for \$900, was made with no supporting documentation.
- Fifty-four payments, totaling \$7,500, were made to organizations that may be related to the recreation programs; however, the former Director was also the Treasurer of these organizations.
- Forty-two payments, totaling \$10,400, were made to the former Director's personal vendors, including a cell phone company, insurance company, gas station, church, hospital, and flower shop and for credit card payments and bank service charges.

This fraudulent activity occurred because City officials did not provide sufficient oversight of the Department's financial activities because the bank account remained outside of the normal financial routines of the City Comptroller's Office. Instead, officials relied solely on the former Director's integrity as the control over accounting for program receipts and disbursements.

The City Attorney explained that a seasonal employee of the Department attempted to purchase a uniform shirt and was told by the Assistant Director that the Department did not accept checks. The City Attorney and Director of Personnel conducted an investigation, then met with the former Director and requested supporting documentation for certain Department financial activities. After several months, the former Director relinquished his position with the City. City officials have since closed the bank account that the former Director used and began to implement oversight procedures of the Department's financial activities. Although we did not audit compliance with the new procedures, the Department appears to be in the process of implementing better internal controls.

Recommendations

1. City officials should take appropriate action to recover the unaccounted for moneys.
2. All receipts and disbursements should be deposited and disbursed from a bank account that is controlled and monitored by the City Comptroller's office. This will ensure that all receipts are properly deposited timely and intact and that disbursements go through the audit process and are for proper Department purposes.
3. All City bank accounts should be established by the City

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

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



Office of the Mayor

Mayor, Matthew T. Ryan

Executive Assistant to the Mayor, Kyle R. Seeley

Secretary to the Mayor, Rebecca Browne

[REDACTED]
Division of Local Government
NYS Comptroller Office
New York State Office Building
44 Hawley Street, Room 1702
Binghamton, NY 13901

Re: Draft Audit 3013M-169

Dear [REDACTED]:

Thank you for providing the City of Binghamton an opportunity to comment on the draft audit of the City of Binghamton's Parks and Recreation Department (the "Department"). The City has a few comments and clarifications that it believes should be included in the audit.

It should be clear that the audit was initiated at the request of the Broome County District Attorney's Office and the City of Binghamton in response to a criminal investigation regarding embezzlement of public funds by the City's former Director of Parks and Recreation, John C. Whalen. The City specifically requested that the audit be conducted for at least the last ten years; however the limited time frame of the audit, from January 1, 2007 to November 27, 2012, was dictated by the applicable criminal statute of limitations.

The draft audit, page 6, states "no one from the City knew this bank account existed" and page 8 notes this "fraudulent activity occurred because City officials did not provide sufficient oversight of the Department's financial activities because the bank account remained outside of the normal financial routines of the City Comptroller's Office." The City believes it is important to note that the total Department budget in 2013 was 1.7 million dollars. Based on the accounting in the draft audit, this bank account was handling about \$70,000 per year, of which almost \$50,000 per year was expended for legitimate adult program expenses. To add to the confusion, there were many legitimate expenses included in the City's adopted budget which mirrored the purposes of this undisclosed bank account. As a result, not only was the City unaware of the Binghamton City Sport Leagues account, it was unnoticed in the City's annual independent audit and a full City audit performed by the NYS Comptroller which included the multi-year period of January 1, 2008 through August 17, 2010. Nonetheless, the City agrees that there was a long time failure to redundant checks and balances are necessary for all City Departments and personnel who handle money from the public.

See
Note 1
Page 12

The City is gratified that the draft audit identifies the former Director's scope of embezzlement from January 1, 2007 to November 27, 2012. The draft audit confirms that what initially appeared to be a small inconsistency in the Department's procedures was really an extensive and intentional theft from the residents who paid to participate in adult programs and to sponsor teams.

Sincerely,

Matthew T. Ryan, Mayor

APPENDIX B

OSC COMMENT ON THE CITY'S RESPONSE

Note 1

Our previous audit dated July 2011 focused on significant control weaknesses and discrepancies in the City's parking operations and the Treasurer's Office. Our audit testing included tracing money received by the Treasurer's Office from third-party vendors and three City departments. Cash receipts from the Recreation Department were not included in that audit.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall objective was to assess the City of Binghamton's Parks and Recreation Department's cash receipts and disbursements processes for the period January 1, 2007, to January 5, 2013. To accomplish the objective of our audit, we performed the following procedures:

- We interviewed the Assistant Director, senior typist, and City Attorney to gain an understanding of the Department's internal controls over cash receipts and disbursements.
- We obtained the rosters and schedules for the adult volleyball, basketball, and softball leagues and documented the captain names, addresses, and, when available, the e-mail addresses for the period January 1, 2007, to December 2012. We also obtained the sponsorship listing for the youth baseball and softball leagues, which included mailing addresses for our audit period. We mailed out confirmation letters to these addresses inquiring how much was paid to the Department for this same time period along with the date and type of payment. If we did not receive a confirmation, we sent out e-mails, if an email address was available, requesting the same information. We attempted to trace this information to the deposit composition details obtained from the Broome County District Attorney's office for January 1, 2007, to November 27, 2012, to ensure the proper amount was deposited.
- We used the same information from the rosters and schedules for the adult leagues, rosters and schedules from the youth softball and baseball leagues, and registration forms from the tennis tournaments to determine how much should have been received and deposited by the Department and attempted to trace those amounts to the deposit composition details for January 1, 2007, to November 27, 2012, to verify that moneys had been deposited timely and intact.
- Using the deposit composition details from January 1, 2007, to November 27, 2012, that were not traced to in the previously mentioned tests, we attempted to determine the reason for these deposits.
- We determined the total number of seasonal employees required to purchase uniform shirts from the payroll records for January 1, 2007, to December 2012 and calculated the total amount that would have been paid by these employees. We then attempted to trace that to the deposit composition to ensure it was deposited intact.
- We obtained the canceled check images and bank statements from the Broome County District Attorney's office for January 1, 2007, to November 27, 2012, for the account titled "Binghamton City Sports League" and documented all disbursements including wire transfers, service charges, and withdrawals. We attempted to trace all 428 disbursements to supporting documentation to determine if they were legitimate Department charges. We also attempted to contact vendors for supporting documentation.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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