

Giusti, Hingston and Company
Certified Public Accountants
36 Jackman Street, Unit 1
Georgetown, MA 01833
Tel: 978-352-7470 Fax: 978-352-8812
Email: GiustiHingstonCo@aol.com

April 30, 2013

Board of Selectmen
Town of Ayer
Town Hall
Ayer, MA 01432

Dear Members of the Board:

In planning and performing our audit of the financial statements of the Town of Ayer, Massachusetts as of and for the year ended June 30, 2012, in accordance with auditing standards generally accepted in the United States of America, we considered the Town of Ayer, Massachusetts's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town of Ayer, Massachusetts's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town of Ayer, Massachusetts's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore there can be no assurance that all such deficiencies have been identified.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

We do not consider the following matters to be significant deficiencies or material weaknesses. However, they are matters we want to communicate to you.

Tax Collector's Depository Bank Account and Ambulance Bank Account

During our review of the cash reconciliation procedures, we found that there were a number of reconciling items that required a lot of attention as of June 30, 2012, relating to property tax and motor vehicle excise tax receipts and turnovers from the Tax Collector to the Treasurer. The current procedures relating to these tax collections include depositing the receipts into a Tax Collectors bank account, by the Tax Collectors office, and then subsequently a turnover is made from the Tax Collectors bank account to the Treasurer's bank account.

In order to make the entire process relating to tax collections and subsequent cash reconciliation more efficient and timely, we recommend that the Tax Collectors bank account be closed and the money collected by the Tax Collector, relating to taxes, should be turned over directly to the Treasurer, to be deposited into the Treasurer's bank account in the same manner that all other departmental receipts are turned over to the Treasurer.

In addition, as of June 30, 2012, we found that there is a Treasurer's bank account that is being used for depositing ambulance receipts, that has a very large balance as of June 30, 2012. It appears that the ambulance receipts are posted into this bank account but the ambulance related expenses are not being

recorded in this account. We recommend that an analysis of the transactions being posted to this account be made. In addition, we recommend that an attempt be made to determine why this account was set up. If there is no specific reason to keep this account open, it should be closed and the balance in the account should be transferred to the Town's regular depository bank account. Also, future ambulance receipts should be deposited into the Town's regular depository account instead of being deposited into the ambulance account.

Management Response (from Finance Manager)

Tax Collector's Depository Bank Account - As the Finance Manager, I agree with the Auditor's recommendation to close the Collector's Bank Account. In fact, the Collector and I had this discussion some months ago and agreed that it would be more efficient to close the account and/or transfer the account directly to the Treasurer. We also agreed to wait for an opinion from the auditor's prior to proceeding further with the Treasurer.

Ambulance Bank Account - On June 6, 2013, I reconciled the account to the general ledger and asked the Treasurer to transfer the difference to a "general" bank account. In fact, I did the same for certain other bank accounts. I will continue to inform the Treasurer of changes in these accounts as part of the regular month-end process. As far as closing the account, the Fire Chief informed me that Medicare and MassHealth receipts are deposited directly into this account. He also stated that the process of changing bank routing numbers with the Federal and State governments is extremely cumbersome; riddled with paperwork. Although I see no reason to retain the ambulance bank account, more input may be needed from the Chief.

Management Response (from Treasurer)

Tax Collector's Depository Bank Account - The history behind the Tax Collector's account is that on January 17, 1991 the account was opened, account #249140675, by the then Tax Collector at the urging of the then Treasurer. It was consequently closed on December 21, 2010 by the present Tax Collector, due to whatever issues he was having with the account.

Before he closed the above mentioned account he opened a new account, #17289513, on June 29, 2010, it remains open and is used to the present time. Both of these accounts were and are in the North Middlesex Savings Bank.

This account has worked well for these past twenty two years. The Tax Collector has better control of money that he collects and deposits in his account. Checks returned for NSF can be handled sooner and easier from re-collecting the money to making the reversal of the accounts in Munis, the Town's Financial Software, more accurately. Any errors can be corrected more timely. Since this is his account, he knows more about the account and the payments that are deposited to the account.

Any errors can be corrected easier and faster by the Tax Collector before the funds are turned over to the Treasurer.

Before the Assistant Tax Collector went out on sick leave and has now retired, she would make daily deposits or deposits every couple of days depending on the amount that was collected. The bank is right next door to Town Hall. It is easy for them take the time to walk over and deposit tax collections on a daily basis. The funds were/are deposited in a Town account more timely rather than waiting for the Treasurer to deposit them. When the new Assistant Tax Collector is hired, then that person can resume making the deposits and handling the account along with the other duties that are assigned to them. This is not a presumption to tell the Tax Collector how to manage his employees, but rather to state that these are the job functions that were already in place.

Ambulance Bank Account - It is my understanding that the Ambulance Account is an Enterprise Fund Account. In speaking with the Fire Chief, Chief Pedrazzi, this account has been open since before he became the Fire Chief in 2006. He believes that the account was opened possibly around 1992. I was here at that time, but do not have any recollection of the account being opened, which would have been by the then Treasurer Thomas Callahan. Since they can only receive electronic deposits from Federal and State agencies for Medicare and Medicaid payments for ambulance calls, he and I are of the opinion that the account needs to remain open.

When I closed our Bank of America (BOA) accounts and went to Eastern bank, it was not an easy process or transition for some of the accounts, this being the most important one.

To close this account would create a tremendous amount work and confusion and missed payments for ambulance calls that have been made. The federal and state agencies would have to be notified of the changes. They would have to process the change which could possibly take up to two months for this process to be made and get back to a good working order. This could potentially create a disruption in the flow of the ambulance service accounting measures.

The Town Accountant, Lisa Gabree, and I spoke concerning making monthly transfers from the Ambulance account to the General Fund account. We agreed that she would give me a transfer sheet at the end of each month. I will then make the appropriate transfers from one account to the other.

Written Cash Investment Policy

The Town Treasurer often has a considerable amount of cash to invest. Although somewhat limited by statute, the Treasurer still must weigh risk versus yield. The Federal Deposit Insurance Company (FDIC) insures government cash deposits and certificates of deposits in banks up to \$250,000. Certain depositories have other insurance and collateralization policies, which provide additional coverage on deposits.

Insurance coverage on deposits at the Massachusetts Municipal Depository Trust varies from day to day and is not easily determinable. Throughout the year, a portion of the Treasurer's funds can be uninsured and uncollateralized. As of June 30, 2012, a significant portion of the Town's cash was uninsured and uncollateralized.

During difficult times, it is especially important that the Treasurer make deposits in sound financial institutions. The Treasurer currently uses the services of Veribanc to assess and rate the strength of various banks based on a number of financial factors. We recommend that the Treasurer continue to use this service, and we also recommend that the Town's investment policy be reviewed and a formal written policy should be developed. This policy should include a minimum rating a bank must have in order for the Treasurer to invest in it. The policy should also consider the minimum ratings (i.e. Moody's) that other types of investment vehicles must have in order for the Treasurer to purchase them. Also, a policy of the maximum acceptable amount of uninsured or uncollateralized deposits, in a particular bank, should be established and complied with.

Establishing and abiding by a sound investment policy is an important step in upholding the Town's fiduciary responsibility to the public.

Management Response (from Treasurer)

With regard to the Town's funds being collateralized, it is not a requirement by the State for Municipalities to collateralize funds. The funds, as of June 30, 2012, were deposited in safe and secure banks with high ratings by Veribanc. Their net assets were more than enough to cover any losses should something happen to the solvency of the banks.

With that being said and as you and I have spoken in March, the town's funds, as of April and May, are now in sweep accounts to cover the collateralization, with the exception of the funds deposited in North Middlesex Savings Bank. Those funds are covered by FDIC for \$250,000 and DIF for balances over \$250,000. Any of the town's accounts that do not have balances of \$250,000 or more are not collateralized as they are covered by FDIC.

Before I open any accounts for deposit of town funds, I look at my Veribanc report to make sure the bank is rated highly. If the bank is not rated high then I do not use them.

Informational Items

Recent legislation related to retirees' health insurance has been introduced by the Governor. The legislation, if enacted, will affect all municipal entities in Massachusetts. In addition, the Division of Local Services has recently provided guidance relative to what they believe is an appropriate charge to the Snow and Ice appropriation account. We are providing the Town with the following **three** comments that are not findings but have been written to be sure the Town is aware of the Health Insurance Legislative changes and the Division of Local Services revised guidance on snow and ice expenditures.

Health Insurance – Retirees

In 2010, the Massachusetts Legislature adopted Massachusetts General Laws (MGL) Chapter 32B Section 9A ½. This section of the law provides the statutory authority for one municipality to bill other municipalities for a percentage of a retiree's health insurance premium. The Town may issue a bill *"for the portion of the premium contributions that corresponds to the percentage of the retiree's creditable service that is attributable to each governmental unit."*

The language of MGL 32B S 9A ½ is fairly broad, but it does address the circumstances where each Town pays a different percentage of retirees' health insurance. (*"The other governmental units shall be charged based on their own contribution rate or the contribution rate of the first employer, whichever is lower."*) Currently, many municipalities have their own requirements (years of service, must retire from that municipality) that must be met in order to be eligible for retirees' health insurance. These varying requirements have made it difficult to determine what a municipality's "contribution rate" is (i.e. it may be interpreted that "based on their own contribution rate" could mean you owe nothing since the employee did not meet your eligibility requirements). However, the Governor recently introduced legislation (House Bill Number 59) that, if enacted, will establish minimum threshold requirements that must be followed by all Massachusetts municipal entities.

Another issue to be resolved is whether the premium bills from other municipalities should be considered "prior period bills" since you would be reimbursing a municipality for premiums paid in a prior fiscal year. Although a formal policy decision has not yet been made by the Division of Local Services, it is likely that they will provide guidance in the future.

Many municipalities have already begun issuing bills in accordance with MGL 32B S 9A ½ and it appears that more will soon follow. As a result, the Town will have to consider the potential costs during the appropriation process. In addition, we believe that the Town should develop procedures to bill other municipalities for their portion of retiree health insurance benefits. The regional (county) retirement system can be a resource in the billing process since they have the employment history for retirees.

Since the new legislation will impact all municipal entities, we recommend that the Town work with its state Legislators and other municipalities to develop procedures that will simplify what appears to be a cumbersome billing process.

Management Response (from Treasurer)

I have been aware of this new law for over a year. I have inquired of other municipalities about what they are doing. I have also received emails from other communities asking the same question.

There are other Treasurers who are following the progression of the Legislature and the Governor concerning the issues this bill has created.

There are a lot of other more complicated issues that make 32B 91/2A a poorly written law. Some of the issues involve the OPEB Commission. They made strong recommendations to the Governor and Legislature that the law has to be fixed from the current unworkable form. The Governor was supposed to make it a high priority to work on the issues surrounding this new law. He did not. OPEB failed to recommend any changes in their final report. The State and MTRS do not pay their portion of health insurance. Retirees who worked for towns that do not offer retiree health insurance to their retirees, then they go to work for communities that do offer health insurance to retirees, who has to pay for the time worked in the town that does not offer health insurance to its retirees? How do cities and towns know how much to budget for those retirees? As one Treasurer put it "It's a lot of work for not much return." Finally, my last comment on this is that some communities are just not participating, even when they are billed and they do not bill other communities.

With all of these unsettled issues surrounding this law, I am of the opinion that the Town of Ayer should not participate until all of the issues are better thought out and corrected.

Pending Legislation Retirees' Health Insurance

Recently, the Governor introduced legislation (House Bill Number 59) aimed at reducing the cost/liability for retirees' health insurance. The legislation, if enacted, will change the eligibility requirements for age and years of service that employees must meet in order to receive the retirees' health insurance benefit. In addition, the legislation pro-rates the retirees' health insurance benefit based on years of service. In order to receive the maximum benefit, an employee must have thirty years of service. If an employee retires with twenty years of service, he/she is eligible to receive 50% of the premium, regardless of the benefit offered by the employer. Upon reaching twenty-three and twenty-seven years of service the employee's benefit increases (if the employer's maximum benefit exceeds 50%). Since the Town of Ayer's maximum benefit is 50%, an employee would receive the maximum benefit after twenty years of service. In an attempt to protect employees close to retirement and those on disability pensions, the legislation includes grandfathering and phase in provisions. The legislation, as written, does not include a local option provision.

If passed, the long term impact of the legislation would reduce the Town's Other Post Employment Benefits liability and the future appropriation requirements for retirees' health insurance. We recommend that the Town monitor the status of the House Bill Number 59.

Snow and Ice Expenditures

The snow and ice appropriation account is atypical to the Town's other appropriation accounts because it may be legally overdrawn (and the deficit raised on the subsequent year's tax recap sheet). In the past, there was little guidance as to what expenditures should be charged to the snow and ice appropriation account. Recently, the Massachusetts Division of Local Services issued guidance regarding what it deemed appropriate charges to the snow and ice account. The guidance is driven by the fact that a snow and ice deficit may be raised on a recap sheet, thereby circumventing the appropriation process. The guidance is directed at normal maintenance and repairs to snow and ice equipment (particularly repairs done outside of the snow and ice season) and other allocations/charges not directly attributable to the removal of snow.

The following is extracted from the fiscal year end 2012 Accountants and Auditor's Letter sent to cities and towns by the Massachusetts Division of Local Services:

"Deficit spending from this account is authorized for only those expenses directly related to the removal of snow and ice that are variable and unpredictable from year to year depending on the severity of the winter. Typically, these expenses include overtime costs for DPW plowing crews, the cost of extra sand and chemicals to be spread on the roads, and the cost of hiring plows and drivers during storms. Deficit spending is not authorized for expenses for regular, recurring DPW activities or salaries that are predictable and do not vary with the weather in any given winter. Communities must budget for these regular activities separately".

We recommend that the Town review its policies and procedures (including budgeting) related to snow and ice expenditures. Expenditures for normal maintenance and repairs (even on snow and ice vehicles or equipment) that could create or add to a snow and ice appropriation deficit should be budgeted and charged to the Department of Public Works operating budget which may not be legally overspent.

Management Response (from Finance Manager)

I am aware of the recent guidelines published by the state regarding snow and ice expenditures. In my opinion, the Town has recorded snow & ice expenditures in accordance with these guidelines. However, there is no written policy or procedure that addresses these types of expenses. I recommend that I work with the DPW Superintendent and the Finance Committee to develop a formal written policy to be included in the Town's financial policies.

Internal Accounting Controls

During our annual audit, one of our main objectives, relating to the Town's system of internal accounting control, is to review the internal controls over financial reporting as a basis for designing our auditing procedures for the purpose of expressing an opinion on the audited financial statements. In addition to this objective, we are also required to review the Town's method used to document and review the internal control procedures that are in place for the Town.

The American Institute of Certified Public Accountants (AICPA) has adopted SAS 112 (Statement on Auditing Standard number 112). This standard relates to internal control documentation and places heavy emphasis on management's responsibility for establishing, documenting and periodically reviewing its systems of internal controls over key financial transaction cycles (i.e. payroll, purchase/disbursements, accounts receivables and cash) and over financial reporting. A goal of the standard is to heighten management's awareness that they are ultimately responsible for their financial statements and systems of internal control and, therefore, must weigh and manage the associated risks. In establishing the controls, management is responsible for assessing the fraud risk related to each cycle.

During our review of the Towns internal accounting control procedures, we noted that the Town Accountant has prepared a summary of some of the Accounting/Treasury Departments internal accounting control procedures relating to Receipts, Expenses, Payroll and Cash reconciliation. This is a very good start to the process of documenting internal accounting controls

We recommend that the Town continue in its effort to document the internal accounting control procedures and financial management policies (as required by SAS 112), and to document the risk assessment of the various internal control cycles (i.e. potential for fraud or material errors). The documentation requirement is a means to ensure that management's intended significant controls are known and can be evaluated during the audit process. Adequate documentation of internal control policies also provides a mechanism to ensure that management's intentions relating to internal control will be available when there is turnover in key financial positions.

Management Response (from Finance Manager)

As stated by the auditor's, I began the process of documenting the Town's internal controls by addressing the controls that are in place concerning the Accounting and Treasury Departments. I agree that the Town should continue the process of documenting existing controls and implementing new controls where needed. However, this needs to be a Town-wide effort, including all departments. As such, I recommend that the Selectmen establish this as a Town-wide goal and instruct the departments to write up their department's respective internal controls. The input from the departments should then be vetted by a committee (perhaps the Finance Committee) and combined in a formal written document accepted by the Selectmen.

Management Response (from Town Administrator)

As previously stated by the Town Accountant, the process of internal accounting controls has begun by the Town's Accounting Department. However, in concurrence with the Town Accountant, this needs to be a Town-Wide effort with a Town-Wide policy in place, established by the Ayer Board of Selectmen. To that end, the Town Administrator and Town Accountant will advise the Ayer Board of Selectmen on the formation of a working group to research and develop official internal accounting controls and policies Town-Wide. It will be recommended to the Ayer Board of Selectmen that the working group consist of the Town Administrator, Town Accountant, a Department Head and a minimum of two Selectmen to research and recommend the internal accounting control policies and procedures for all Departments in the Town of Ayer. It is anticipated that a comprehensive policy and procedure will be in place and administered by June 30, 2014.

Non Sufficient Funds (NSF) Checks

As we noted in our prior report, there are a number of checks that have been received by the Town, which were deposited into the Town's depository bank account that the bank subsequently returned to the Town because of insufficient funds. When the bank determines that a check has insufficient funds, it automatically redeposits the check in anticipation that funds would then be available. If there are still insufficient funds available, the bank notifies the Treasurer of the NSF check. The Treasurer then forwards this information relating to the check to the Assistant Treasurer, who then sends a letter to the person indicating that the check has been returned for insufficient funds, and requesting payment. In addition, the Treasurer automatically debits the account from which the check was originally credited. If the check subsequently has sufficient funds, the same account is then credited.

Subsequent to issuance of our prior report, the Treasurer has contacted the Deputy Collector and the Constable to see if there are additional steps that can be taken to collect on these NSF checks. They offered no additional advice, other than to be sure to send timely letters out requesting re-payment of the funds.

We recommend that the Town continue to try to use every means possible to collect on these checks and to be very diligent about sending letters to any person who has a NSF check, and to send the letter as soon as possible once notified of the NSF check. We also recommend that a second letter be sent within thirty days, if there is no success from the first letter.

Management Response (from Treasurer)

While there are a number of NSF checks owed to the Town, they date back to 1995. They have all been written off of our books. This happens as soon as I am notified by the bank of NSF status. The process is for the Assistant Treasurer to send a letter to each individual informing them that their check has been returned for NSF's. They are given instructions as to how to settle this with the Town. As we discussed last year, if they do not respond to the first letter, then a second letter needs to be sent out. I did mention this last year to the Assistant Treasurer. I will mention it again to her and make sure that this policy is followed thru with.

I have asked other communities what they do about checks that are as old as some of ours. I did not receive any satisfactory answers. That is when I asked Jim Giusti how far back we should delve to try to collect the NSF checks. Still there was not a satisfactory answer. I cannot imagine that if attempts are made to collect on checks written in 1995 that we will get a very good response, if any at all.

I would again like to ask if we can try to collect only the most recent ones that date back to a time that you agree is a satisfactory time period?

Old Motor Vehicle Excise Accounts Receivable Accounts

During our review of the June 30, 2012 balances for the motor vehicle excise tax receivable accounts, we found that these receivable levies date back many years (twenty-two years).

When a motor vehicle excise tax bill is sent out, it is due and payable to the town within thirty days. If it is not paid within the thirty days, a demand for payment is then sent to the taxpayer and a Five dollar fee is added to the bill. If the bill is not paid within fourteen days, then a warrant is prepared and the bill becomes the responsibility of the Deputy Collector. If the taxpayer does not respond within thirty days to the Deputy Collector, Massachusetts general law gives the Tax Collector the authority to transmit to the Registrar of Motor Vehicles, a notice of non payment of the excise tax (specifying the name and address of the person to whom the excise tax was assessed). Upon receipt of such notification of non payment, the Registrar shall place the matter on record and not renew the license to operate a motor vehicle of the registered owner of the vehicle, nor issue a new registration of such to the person to whom the unpaid excise tax was assessed. The possibility of these actions taking place make it more likely that the excise tax bills will be paid.

This is a powerful tool that the Tax collector has at his disposal. It is important to follow these procedures on a regular and consistent basis to keep the amount of uncollected motor vehicle excise taxes as low as possible. The current Tax Collector does in fact follow all of the procedures noted above relating to issuing demands and warrants and using the services of a deputy Tax Collector, as well as notifying the Registry of Motor Vehicles of delinquent taxpayers, as detailed above. It is very important to continue to perform these steps so that additional unpaid receivables are not accumulating.

We recommend that the Town consider writing off the old motor vehicle excise tax balances. If a payment is received on one of the levies that has been written off, it should be credited to an "old motor vehicle excise tax" revenue account. As a general rule, the general ledger should only reflect levies dating back approximately seven years.

Management Response (from Tax Collector)

Regardless of the fiscal year, the Ayer Tax Collector's office pursues the payment of outstanding Motor Vehicle-Excise taxes by following the processes noted in the auditors letter; however, our experience shows tax collection success rates diminish over time for a host of reasons including, but, not limited to a taxpayer's change of address, name change, incorrect data, death, etc. With instruction as to the legal and Munis standards, which our office must follow, we can begin the formalized process to write off old motor vehicle excise tax balances exceeding the time limit of seven years as noted in the auditor's letter.

Property Tax Accounts Receivable Accounts – Listed as Liability Accounts

The Town's general ledger reflects numerous personal property tax, real estate tax and motor vehicle excise receivable accounts (thirty-eight accounts), that are shown in the general ledger as liability accounts. Accounts of this type typically mean that refunds for overpayments have yet to be made.

We recommend that the Tax Collector review the credit balance reports from the accounts receivable system and compare them to the general ledger balances and work with the Town Accountant to try to determine why the credit balances are appearing on the general ledger. If refunds are due, they should be made in a timely manner. Because there are a significant number of these accounts reflected on the general ledger, the best way to go about taking care of the problem is to look at the current period first. Once this current period is reviewed and refunds are issued or corrections are made, then the previous year can be analyzed and taken care of. In order to streamline the General Ledger and to make the recording and reconciliation of accounts in the ledger as efficient as possible, it is important to take care of these old lingering accounts.

Management Response (from Tax Collector)

The Ayer Tax Collector's office credits a refund for overpayment as we verify a verifiable overpayment. As the audit letter suggests, our office is working on the current year first.

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This communication is intended solely for the information and use of management, and those charged with governance and others within the organization, and is not intended to be and should not be used by anyone other than those specified parties.

After you have had an opportunity to consider our findings and recommendations, we shall be pleased to discuss them further with you. We would like to thank you for the cooperation and courtesy extended to us during the course of the engagement.

Sincerely,

Giusti, Hingston and Company

Giusti, Hingston and Company
Certified Public Accountants