

VILLAGE OF NEW WESTON

DARKE COUNTY

REGULAR AUDIT

JANUARY 1, 2005 THROUGH DECEMBER 31, 2006

YEARS AUDITED UNDER GAGAS: 2006 AND 2005

CAUDILL & ASSOCIATES CPA's

725 5th Street
Portsmouth, Ohio 45662



Mary Taylor, CPA

Auditor of State

Village Council
Village of New Weston
P.O. Box 2A
New Weston, Ohio 45348

We have reviewed the *Independent Auditor's Report* of the Village of New Weston, Darke County, prepared by Caudill & Associates, CPA's, for the audit period January 1, 2005 through December 31, 2006. Based upon this review, we have accepted these reports in lieu of the audit required by Section 117.11, Revised Code. The Auditor of State did not audit the accompanying financial statements and, accordingly, we are unable to express, and do not express an opinion on them.

Findings for Recovery

The Ohio Supreme Court has considered the extent of a non-charter municipality's authority to provide by ordinance for the compensation of its employees where such an ordinance is at variance with a statute concerning the same subject. *Northern Ohio Patrolmen's Benevolent Assoc. v. City of Parma*, 61 Ohio St. 2d 375 (1980). In short, the Court states that Ohio Constitution art. XVIII, § 3 is a direct grant of power to all municipalities to exercise local self government, and a non-charter municipality may enact an ordinance governing the salary paid to its employees.

However, **Ohio Rev. Code Section 731.13** limits the timing of increases in compensation for village council members which states, in part, that the legislative authority of a village shall fix the compensation of all officers, clerks, and employees of the village except as otherwise provided by law. The legislative authority shall, in the case, of elective officers, fix their compensation for the ensuing term of office at a meeting held not later than five days prior to the last day fixed by law for filing as a candidate for such office. The compensation so fixed shall not be increased or diminished during the term for which any officer is elected or appointed.

Further, **Ohio Revised Code Section 102.03(D) and (E) and Ohio Ethics Commission Advisory Opinions 93-006 and 96-001**, prohibit the members of village council from enacting an ordinance granting an in-term increase in compensation for the current members of council and prohibits a village council member from accepting, for the duration of his present term, an increase in compensation enacted by council while he was a member thereof, regardless of whether he votes for or against the increase, or whether he abstains from participating in the issue.

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The Village provided minutes of the May 1, 2006 Council meeting documenting approval of a motion “to do payroll in June” stating “new payroll amounts for council are \$40.00 per meeting & \$50.00 per meeting for the President of Council.” After being notified that the effective date of June, 2006 would result in a prohibitive in-term increase for Council members, the Village subsequently provided minutes from the December 5, 2005 Council meeting showing a motion for the compensation increases. Prior to this increase, the salary for all Village Council members was \$20 per meeting.

The in-term increase resulted in the overpayments listed below:

Council Member	Term of Office	Number of Meetings Attended	Bonus (A)	Gross Salary Paid	Correct Pay at \$20/meeting plus bonus	Variance
Foster, Charles	1/1/04 - 12/31/07	12	\$100	\$580	\$340	\$240
Foster, Joanne	1/1/06 - 12/31/09	9	100	460	280	180
Mueller, Elaine	1/1/04 - 12/31/07	12	100	580	340	240
Mueller, Paul (Pres)	1/1/06 - 12/31/09	12	100	700	340	360
Post, Carl	1/1/06 - 12/31/09	11	100	540	320	220
Widener, Eric	1/1/06 - 12/31/09	12	100	580	340	240

(A) = per village ordinance 91-06, any member of council who has attended at least 7 regular meetings shall receive an additional \$100 for that year.

In accordance with the foregoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money illegally expended is hereby issued against Council members Charles Foster in the amount of \$240; the estate of Joanne Foster in the amount of \$180; Elaine Mueller in the amount of \$240; Carl Post in the amount of \$220; Eric Widener in the amount of \$240, and Paul Mueller in the amount of \$360, in favor of the General Fund of the Village of New Weston.

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of the expenditure. Seward v. National Surety Corp., 120 Ohio St. 47 (1929); 1980 Op. Atty Gen. No. 80-074; Ohio Rev. Code Section 9.39; State, ex rel. Village of Linndale v. Masten, 18 Ohio St. 3d 228 (1985). Public officials controlling public funds or property are secondarily liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen. Public officials will be liable if and to the

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extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property. 1980 Op. Atty Gen. No. 80-074.

Accordingly, a Finding for Recovery is hereby issued against Teresa Birt, clerk/fiscal officer, and her bonding company, Western Surety Company, jointly and severally, in the total amount of \$1,480 in favor of the Village of New Weston General Fund. Teresa Birt shall be secondarily liable for such illegal expenditures to the extent that recovery or restitution is not obtained from Charles Foster, the estate of Joanne Foster, Elaine Mueller, Paul Mueller, Carl Post and Eric Widener.

The financial statements in the attached report are presented in accordance with a regulatory basis of accounting prescribed or permitted by the Auditor of State. Due to a February 2, 2005 interpretation from the American Institute of Certified Public Accountants (AICPA), modifications were required to the *Independent Auditor's Report* on your financial statements. While the Auditor of State does not legally require your government to prepare financial statements pursuant to Generally Accepted Accounting Principles (GAAP), the AICPA interpretation requires auditors to formally acknowledge that you did not prepare your financial statements in accordance with GAAP. The attached report includes an opinion relating to GAAP presentation and measurement requirements, but does not imply the statements are misstated under the non-GAAP regulatory basis. The *Independent Auditor's Report* also includes an opinion on the financial statements using the regulatory format the Auditor of State permits.

Our review was made in reference to the applicable sections of legislative criteria, as reflected by the Ohio Constitution, and the Revised Code, policies, procedures and guidelines of the Auditor of State, regulations and grant requirements. The Village of New Weston is responsible for compliance with these laws and regulations.



Mary Taylor, CPA
Auditor of State

June 25, 2008

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**VILLAGE OF NEW WESTON
DARKE COUNTY**

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Caudill & Associates, CPA's

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Independent Auditor's Report

Village of New Weston
Darke County
P.O. Box 2A
New Weston, Ohio 45348

To the Village Mayor and Council:

We have audited the accompanying financial statements of the Village of New Weston (The Village), Darke County, Ohio, as of and for the years ended December 31, 2006 and 2005. These financial statements are the responsibility of the Village's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described more fully in Note 1, the Village has prepared these financial statements using accounting practices the Auditor of State prescribes or permits. These practices differ from accounting principles generally accepted in the United States of America (GAAP). Although we cannot reasonably determine the effects on the financial statements of the variances between these regulatory accounting practices and GAAP, we presume they are material.

Revisions to GAAP would require the Village to reformat its financial statement presentation and make other changes effective for the years ended December 31, 2006 and 2005. Instead of the combined funds the accompanying financial statements present for 2006 and 2005, the revisions require presenting entity wide statements and also presenting its larger (i.e. major) funds separately for 2006 and 2005. While the Village does not follow GAAP, generally accepted auditing standards requires us to include the following paragraph if the statements do not substantially conform to the new GAAP presentation requirements. The Auditor of State permits, but does not require governments to reformat their statements. The Village has elected not to reformat its statements. Since this Village does not use GAAP to measure financial statement amounts, the following paragraph does not imply the amounts reported are materially misstated under the accounting basis the Auditor of State permits. Our opinion on the fair presentation of the amounts reported pursuant to its non-GAAP basis is in the second following paragraph.

In our opinion, because of the effects of the matter discussed in the preceding two paragraphs, the financial statements referred to above for the years ended December 31, 2006 and 2005, do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the Village as of December 31, 2006 and 2005, or its changes in financial position for the years then ended.

Also, in our opinion, the financial statements referred to above present fairly, in all material respects, the combined fund cash balances of the Village as of the December 31, 2006 and 2005, and its combined cash receipts and disbursements for the years then ended on the accounting basis Note 1 describes.

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Darke County
Independent Auditor's Report
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As disclosed in Note 9 to the financial statements, the Village restated the beginning balances of the General and Capital Project funds for the year ended December 31, 2005. The restatement was made to correct sewer project expenditures erroneously made from the General fund in 2004.

The aforementioned revision to generally accepted accounting principles also requires the Village to include Management's Discussion and Analysis for the years ended December 31, 2006 and 2005. The Village has not presented Management's Discussion and Analysis, which accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of, the financial statements.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 21, 2007, on our consideration of the Village's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Caudill & Associates, CPAs

Caudill & Associates, CPA's

November 21, 2007

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**COMBINED STATEMENT OF CASH RECEIPTS, CASH DISBURSEMENTS, AND
CHANGES IN FUND CASH BALANCES - ALL GOVERNMENTAL FUND TYPES
FOR THE YEAR ENDED DECEMBER 31, 2006**

	Governmental Funds Types				Totals (Memorandum Only)
	General	Special Revenue	Debt Service	Capital Project	
<u>Cash Receipts</u>					
Property and Other Taxes	\$ 4,511	\$ 3,306	\$ -	\$ -	\$ 7,817
Intergovernmental	34,745	13,411	-	3,694	51,850
Special Assessments	-	-	26,693	-	26,693
Earnings on Investments	484	415	-	-	899
Miscellaneous	126	1,000	-	-	1,126
Total Cash Receipts	39,866	18,132	26,693	3,694	88,385
<u>Disbursements:</u>					
Security of Persons and Property	4,296	2,100	-	-	6,396
Public Health	664	-	-	-	664
Basic Utility Service	5,837	-	-	-	5,837
Leisure Time Activities	3,181	1,573	-	-	4,754
Transportation	786	-	-	-	786
General Government	19,945	54	-	-	19,999
Capital Outlay	-	-	-	5,396	5,396
Redemption of Debt Principal	-	3,750	26,693	-	30,443
Total Cash Disbursements	34,709	7,477	26,693	5,396	74,275
 Total Receipts Over (Under) Disbursements	 5,157	 10,655	 -	 (1,702)	 14,110
 Fund Cash Balance, January 1	 91,146	 77,914	 -	 1,792	 170,852
Fund Cash Balance, December 31	\$ 96,303	\$ 88,569	\$ -	\$ 90	\$ 184,962

The notes to the financial statements are an integral part of this statement

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**COMBINED STATEMENT OF CASH RECEIPTS, CASH DISBURSEMENTS, AND
CHANGES IN FUND CASH BALANCES - ALL GOVERNMENTAL FUND TYPES
FOR THE YEAR ENDED DECEMBER 31, 2005**

	<u>Governmental Funds Types</u>				<u>Totals (Memorandum Only)</u>
	<u>General</u>	<u>Special Revenue</u>	<u>Debt Service</u>	<u>Capital Project</u>	
<u>Cash Receipts:</u>					
Property and Other Taxes	\$ 3,773	\$ 3,152	\$ -	\$ -	\$ 6,925
Intergovernmental	35,877	9,647	-	45,000	90,524
Special Assessments	-	-	13,346	-	13,346
Earnings on Investments	432	338	-	-	770
Miscellaneous	11	15	-	-	26
Total Cash Receipts	<u>40,093</u>	<u>13,152</u>	<u>13,346</u>	<u>45,000</u>	<u>111,591</u>
<u>Disbursements:</u>					
Security of Persons and Property	5,600	2,100	-	-	7,700
Public Health	614	-	-	-	614
Basic Utility Service	8,920	-	-	-	8,920
Leisure Time Activities	3,433	6,556	-	-	9,989
Transportation	1,199	-	-	-	1,199
Community Environment	11,508	-	-	-	11,508
General Government	18,913	50	-	-	18,963
Capital Outlay	3,176	-	-	105,770	108,946
Redemption of Debt Principal	-	3,750	13,346	-	17,096
Total Cash Disbursements	<u>53,363</u>	<u>12,456</u>	<u>13,346</u>	<u>105,770</u>	<u>184,935</u>
Total Cash Receipts Over (Under) Disbursements	<u>(13,270)</u>	<u>696</u>	<u>-</u>	<u>(60,770)</u>	<u>(73,344)</u>
Other Financing Receipts and (Disbursements)					
Transfers In	-	-	-	4,008	4,008
Transfers Out	<u>(4,008)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(4,008)</u>
Total Other Financing Receipts (Disbursements)	<u>(4,008)</u>	<u>-</u>	<u>-</u>	<u>4,008</u>	<u>-</u>
Excess of Cash Receipts and Other Financing Receipts Over (Under) Cash Disbursements and Other Financing Disbursements	<u>(17,278)</u>	<u>696</u>	<u>-</u>	<u>(56,762)</u>	<u>(73,344)</u>
Fund Cash Balance, January 1 (Restated)	<u>108,424</u>	<u>77,218</u>	<u>-</u>	<u>58,554</u>	<u>244,196</u>
Fund Cash Balance, December 31	<u>\$ 91,146</u>	<u>\$ 77,914</u>	<u>\$ -</u>	<u>\$ 1,792</u>	<u>\$ 170,852</u>

The notes to the financial statements are an integral part of this statement

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Description of the Entity

The constitution and laws of the State of Ohio establish the rights and privileges of the Village of New Weston, Darke County, (the Village) as a body corporate and politic. A publicly-elected six-member Council governs the Village. The Village provides general government services, including park operations. The Village contracts with Burkettsville Community Fire Department for fire protection service and the Ansonia Area Local Rescue for rescue/ambulance services.

The Village's management believes these financial statements present all activities for which the Village is financially accountable.

B. Basis of Accounting

These financial statements follow the basis of accounting the Auditor of State prescribes or permits. This basis is similar to the cash receipts and disbursements. The Village recognizes receipts when received in cash rather than when earned, and recognizes disbursements when paid rather than when a liability is incurred. Budgetary presentations report budgetary expenditures when a commitment is made (i.e., when an encumbrance is approved).

These statements adequately disclose material matters the Auditor of State prescribes.

C. Cash and Investments

The Village's accounting basis includes investments as assets. This basis does not report disbursements for investment purchases or receipts for investment sales. The Village reports gains or losses at the time of sale as receipts or disbursements, respectively.

D. Fund Accounting

The Village uses fund accounting to segregate cash and investments that are restricted as to use. The Village classifies its funds into the following types:

1. General Fund

The General Fund reports all financial resources except those required to be accounted for in another fund.

2. Special Revenue Fund

These funds account for proceeds from specific sources (other than from trusts or for capital projects) that are restricted to expenditure for specific purposes. The Village had the following significant Special Revenue Funds:

Street Construction, Maintenance, and Repair Fund – This fund receives gasoline tax and motor vehicle tax money for constructing, maintaining, and repairing Village streets.

Park Fund – This fund receives grants and donations to fund maintenance of the Village Park.

Fire Protection Fund – This fund receives the proceeds from a tax levy to pay for fire protection.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

D. Fund Accounting (Continued)

3. Capital Project Funds

These funds are used to account for receipts that are restricted for the acquisition or construction of major capital projects (except those financed through enterprise or trust funds). The Village had the following significant capital project fund.

Sanitary Sewer Fund – This fund received the proceeds from an Ohio Water Development Authority loan, State of Ohio issue II funds, and CDBG funds. The funds are being used to construct a new sanitary sewer.

4. Debt Service Funds

These funds are used to accumulate resources for the payment of the Village's indebtedness. The Village had one debt service fund which was used to receive assessments and repay the sanitary sewer bonds.

E. Budgetary Process

The Ohio Revised Code requires that each fund be budgeted annually.

1. Appropriations

Budgetary expenditures (that is, disbursements and encumbrances) may not exceed appropriations at the fund, function or object level of control, and appropriations may not exceed estimated resources. Village Council must annually approve appropriation measures and subsequent amendments. The County Budget Commission must also approve the annual appropriation measure. Appropriations lapse at year end.

2. Estimated Resources

Estimated resources include estimates of cash to be received (budgeted receipts) plus cash as of January 1. The County Budget Commission must also approve estimated resources.

3. Encumbrances

The Ohio Revised Code requires the Village to reserve (encumber) appropriations when commitments are made. Encumbrances outstanding at year end are carried over, and need not be reappropriated. There were no encumbrances for 2006 and 2005.

A summary of 2006 and 2005 budgetary activity appears in Note 3.

F. Property, Plant, and Equipment

The Village records disbursements for acquisitions of property, plant, and equipment when paid. The accompanying financial statements do not report these items as assets.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

2. EQUITY IN POOLED CASH AND INVESTMENTS

The Village maintains a cash and investment pool that all funds use. The Ohio Revised Code prescribes allowable deposits and investments. The carrying amount of cash and investments at December 31 was as follows:

	2006	2005
Demand deposits	\$ 184,962	\$ 170,852
Total deposits	\$ 184,962	\$ 170,852

Deposits: Deposits are either (1) insured by the Federal Depository Insurance Corporation, or collateralized by the financial institution's public entity deposit pool.

3. BUDGETARY ACTIVITY

Budgetary activity for the years ending December 31, 2006 and 2005 follows:

2006 Budgeted vs. Actual Receipts

Fund Type	Budgeted Receipts	Actual Receipts	Variance
General	\$ 35,419	\$ 39,866	\$ 4,447
Special Revenue	8,575	18,132	9,557
Capital Projects	-	3,694	3,694
Debt Service	26,693	26,693	-
Total	\$ 70,687	\$ 88,385	\$ 17,698

2006 Budgeted vs. Actual Budgetary Basis Expenditures

Fund Type	Appropriation Authority	Budgetary Expenditures	Variance
General	\$ 122,572	\$ 34,709	\$ 87,863
Special Revenue	86,489	7,477	79,012
Capital Projects	5,710	5,396	314
Debt Service	26,693	26,693	-
Total	\$ 241,464	\$ 74,275	\$ 167,189

2005 Budgeted vs. Actual Receipts

Fund Type	Budgeted Receipts	Actual Receipts	Variance
General	\$ 40,439	\$ 40,093	\$ (346)
Special Revenue	11,230	13,152	1,922
Capital Projects	79,911	49,008	(30,903)
Debt Service	-	13,346	13,346
Total	\$ 131,580	\$ 115,599	\$ (15,981)

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

3. BUDGETARY ACTIVITY (Continued)

2005 Budgeted vs. Actual Budgetary Basis Expenditures			
Fund Type	Appropriation Authority	Budgetary Expenditures	Variance
General	\$ 108,864	\$ 57,371	\$ 51,493
Special Revenue	88,449	12,456	75,993
Capital Projects	98,466	105,770	(7,304)
Debt Service	-	13,346	(13,346)
Total	\$ 295,779	\$ 188,943	\$ 106,836

4. PROPERTY TAX

Real property taxes become a lien on January 1 preceding the October 1 date for which the Board of Trustees adopts tax rates. The State Board of Tax Equalization adjusts these rates for inflation. Property taxes are also reduced for applicable homestead and rollback deductions. The State pays the Village amounts equaling these deductions. The Village includes these with Intergovernmental Receipts. Payments are due to the County by December 31. If the property owner elects to pay semiannually, the first half payment is due December 31. The second half payment is due the following June 20.

Public utilities are also taxed on personal and real property located within the Village.

Property owners assess tangible personal property tax. They must file a list of tangible property to the County by each April 30. The County is responsible for assessing property, and for billing, collecting, and distributing all property taxes on the Village's behalf.

5. DEBT

Debt outstanding at December 31, 2006 was as following:

	2006
Ohio Public Works Loan (Main St)	\$ 67,500
Ohio Water Development Authority (Sewer Project)	493,816
Total	\$ 561,316

The Main Street OPWC Loan was provided by the State to assist in the cost of the Village's Main Street project and will be retired with semi-annual payments of \$1,875 starting July 1, 2005 and ending January 2024.

The Ohio Water Development Authority (OWDA) loan relates to the construction of the New Weston-Burkettsville Sanitary Sewer System that was mandated by the Ohio Environmental Protection Agency. This is a joint sewer project with the Village of Burkettsville. On January 27, 2004, the Village obtained a loan in the amount of \$533,855 for the sewer system project which will be retired with semi-annual payments of \$13,346 starting January 1, 2006 and ending July 2025.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

5. DEBT (Continued)

Year ending December 31,	OPWC Loan	OWDA Loan
2007	\$ 3,750	\$ 26,693
2008	3,750	26,693
2009	3,750	26,693
2010	3,750	26,693
2011	3,750	26,693
2012-2016	18,750	133,464
2017-2021	18,750	133,464
2022-2025	11,250	93,423
Total	<u>\$ 67,500</u>	<u>\$ 493,816</u>

6. RETIREMENT SYSTEMS

A. Public Employees Retirement system

The Village has one Council member, the Deputy Clerk and the Street Commissioner who belong to the Ohio Public Employees Retirement System (OPERS). OPERS is a cost-sharing, multiple-employer plan. The Ohio Revised Code prescribes the plans' retirement benefits, including postretirement healthcare and survivor and disability benefits.

The Ohio Revised Code also prescribes contribution rates. For 2006 and 2005, OPERS members contributed 9 and 8.5 percent of their gross wages, respectively, and the Village contributed an amount equal to 13.7 and 13.55 percent, respectively, of participants' gross salaries. The Village has paid all contributions required through December 31, 2006.

B. Social Security System

Effective July 1, 1991, all employees not otherwise covered by the Public Employee Retirement System have an option to choose Social Security or the Public Retirement Service System. As of December 31, 2006, five of the Council members, Clerk/Treasurer, and Mayor have elected to pay Social Security. The Village liability is 6.2 percent of the wages paid.

7. RISK MANAGEMENT

Commercial Insurance

The Village has obtained commercial insurance for the following risks through EMC Insurance Companies:

- Comprehensive Property and General Liability; and
- Vehicles

8. COMPLIANCE

In 2006 and 2005, fifty-nine percent (59%) and seventy-three percent (73%), respectively, of the expenditures tested were not properly certified contrary to the Ohio Revised Code Section 5705.41(D).

Contrary to Ohio Rev. Code Section 5705.41 (B), the Village expenditures exceeded appropriations in the Capital Project and Debt Service funds for 2005.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

8. COMPLIANCE (Continued)

Contrary to Ohio Rev. Code Section 5705.39, the Village appropriations exceeded total estimated revenue in the Capital Project fund for 2006

Contrary to Ohio Rev. Code Section 731.13, 102.03(D) and (E), Village council approved an in-term increase during 2006.

Contrary to Ohio Rev. Code Section 102.03(D), two council members voted on a motion to install a tile drain that benefited their property.

Contrary to Ohio Rev Code Section 5705.36, the Village did not file amended certificates of available resources for the Debt Service Fund receipts in 2005 and the Capital Project Fund receipts in 2006.

Contrary to Ohio Rev. Code Section 5705.40, Village appropriation ordinances were not amended for the Capital Project and Debt Service funds for 2005.

IRS form #1099-Misc Income, was not issued to sub-contractors for 2006 and 2005.

9. RESTATEMENT OF FUND BALANCE

The restatement of the beginning fund balances for the Capital Project and General Funds, was made to correct sewer project engineering expenditures erroneously made from the General Fund in 2004.

	General Fund	Capital Project Fund
Fund Balance December 31, 2004	\$ 68,424	\$ 98,554
Adjustment for expenditures	40,000	(40,000)
Adjusted Fund Balance January 1, 2005	\$ 108,424	\$ 58,554

10. RELATED PARTIES

In 2006, the Village approved the installation of a tile drain to benefit the property of two councilmen, Mr. and Mrs. Paul Mueller. The Muellers' paid for the installation and the Village paid for a riser. Cost of the riser: \$65.

Caudill & Associates, CPA's

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Portsmouth, OH 45662

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Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Village Council
Village of New Weston
P.O. Box 2A
New Weston, Ohio 45348

To the Village Mayor and Council:

We have audited the accompanying financial statements of the Village of New Weston (the Village), Darke County, as of and for the years ended December 31, 2006 and 2005, which collectively comprise the Village's financial statements, and have issued our report thereon dated November 21, 2007, wherein we noted the Village followed accounting practices the Auditor of State prescribes rather than accounting principles generally accepted in the United States of America. As disclosed in Note 9 to the financial statements, the Village restated fund balances at January 1, 2005, to adjust for sewer project expenditures incorrectly made from the General fund during 2004. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Village's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness on the Village's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Village's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider significant deficiencies.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Village's ability to initiate, authorize, record, process, or report financial data reliably in accordance with its applicable accounting basis, such that there is more than a remote likelihood that a misstatement of the Village's financial statements that is more than inconsequential will not be prevented or detected by the Village's internal control. We consider the following deficiencies described in the accompanying schedule of findings and responses to be significant deficiencies in internal control over financial reporting as items 2006-009 and 2006-010.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the Village's internal control.

Village of New Weston

Darke County

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Page 2

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider the following deficiency described in the accompanying schedule of findings and responses to be a material weakness in internal control over financial reporting as item 2006-010.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Village's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed eight instances of noncompliance that are required to be reported under *Government Auditing Standards* which are described in the accompanying Schedule of Findings and Responses as items No. 2006-001, 2006-002, 2006-003, 2006-004, 2006-005, 2006-006, 2006-007, and 2006-008.

We noted certain noncompliance or other matters that we reported to the Village's management in a separate letter dated November 21, 2007.

The Village's responses to the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. We did not audit the Village's responses and, accordingly, we express no opinion on them.

This report is intended for the information and use of management, Village Council, and is not intended to be and should not be used by anyone other than these specified parties.

Caudill & Associates, CPA's

Caudill & Associates, CPA's

November 21, 2007

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

**1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS
REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS**

FINDING NUMBER 2006-001

Noncompliance Citation – Ohio Rev. Code Section 731.13, 102.03(D) and (E)

Ohio Rev. Code Section 731.13 states the legislative authority of a village shall fix the compensation of all officers, clerks, and employees of the village. The legislative authority shall, in the case, of elective officers, fix their compensation for the ensuing term of office at a meeting held not later than five days prior to the last day fixed by law for filing as a candidate for such office. The compensation so fixed shall not be increased or diminished during the term for which any officer is elected or appointed. **Ohio-Revised Code Section 102.03 (D) and (E) and Ethics Opinion 93-006**, prohibit the members of village council from enacting an ordinance granting an in-term increase in compensation for the current members of council and prohibits a village council member from accepting, for the duration of his present term, an increase in compensation enacted by council while he was a member thereof, regardless of whether he votes for or against the increase, or whether he abstains from participating in the issue.

Council passed a motion on December 5, 2005, setting the salary of Village Council members at \$40 per meeting and \$50 per meeting for the Council president. Prior to this increase, the salary for all Village Council members was \$20 per meeting. The in-term increase resulted in the overpayments listed below:

COUNCILMAN	TERM OF OFFICE	AMOUNT PAID	CORRECT AMOUNT @ \$20/MTG	OVER-PAYMENT
Foster, Charles	01/01/04-12/31/07	\$580	\$340	\$240
Foster, Joanne	01/01/06-12/31/09	\$460	\$280	\$180
Mueller, Elaine	01/01/04-12/31/07	\$580	\$340	\$240
Post, Carl	01/01/06-12/31/09	\$540	\$320	\$220
Widener, Eric	01/01/06-12/31/09	\$580	\$340	\$240
Mueller, Paul (Pres)	01/01/06-12/31/09	\$700	\$340	\$360

This non-compliance will be referred to the Auditor of State’s Office for further resolution.

Village Response:

We believe council members’ Elaine Mueller and Charles Foster are the only members who were over paid in 2006. Ms. Mueller and Mr. Foster have both paid the Village for this overpayment in December.

Since the motion for an increase was made prior to the term of office for the remaining four council members, the Village does not believe these members were over paid. However, the council members have made restitution to the Village pending a determination by the Auditor of State of Ohio.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-002

Noncompliance Citation – Ohio Rev. Code Section 5705.41 (D)

Ohio Rev. Code Section 5705.41 (D) (1) states no orders or contracts involving the expenditure of money are to be made unless there is a certificate of the fiscal officer attached that the amount required for the order or contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

The following exceptions to this basic requirement are provided by Ohio Rev. Code Section 5705.41 (D)

(1): Then and Now Certificate: If the fiscal officer can certify that both at the time that the contract or order was made and at the time that he is completing his certification, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance, the taxing authority can authorize the drawing of a warrant for the payment of the amount due. The taxing authority has 30 days from the receipt of the “then and now” certificate to approve payment by resolution or ordinance. If approval is not made within 30 days, there is no legal liability on the part of the subdivision or taxing district. Amounts of less than \$100 for counties, or less than \$3,000 for other political subdivisions, may be paid by the fiscal officer without such affirmation of the taxing authority upon completion of the "then and now" certificate, provided that the expenditure is otherwise lawful. This does not eliminate any otherwise applicable requirement for approval of expenditures by the taxing authority.

(2): Blanket certificate – Fiscal officer may prepare “blanket” certificates not exceeding 44,000 (an amount established by resolution or ordinance adopted by the legislative authority, effective September 26, 2003) against any specific line item account over a period not exceeding three month (three month limitation was eliminated effective September 26, 2003) or running beyond the current year. The blanket certificates may be outstanding at one particular time for any one particular line item appropriation.

(3): Super Blanket certification – The Village may also make expenditures and contracts for any amount from a specific line-item appropriation account in a specified fund upon certification of the fiscal officer for most professional services, fuel, oil, food items, and any other specific recurring and reasonable predictable operating expense. This certification is not to extend beyond the current year. More than one super blanket certificate may be outstanding at a particular time for any one line item appropriation.

Fifty-nine percent (59%) of the expenditures tested were not properly certified in 2006 and seventy-three percent (73%) in 2005. Failure to properly certify the availability of funds can result in overspending and negative cash fund balances.

We recommend the Village implement policies to improve controls over disbursements and to help reduce the possibility of the Village’s funds exceeding budgetary spending limitations.

Village Response:

The Village will implement a policy requiring approval of purchase orders at each meeting. The information approved will include the amount, type of purchase order, date, and payee. Approved purchase orders will be recorded in the Village minutes.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-003

Noncompliance Citation – Ohio Rev. Code Section 5705.41 (B)

Ohio Rev. Code Section 5705.41(B), prohibits expenditures unless the funds have been properly appropriated. This prohibits expenditures from exceeding appropriations. Contrary to this requirement, expenditures for two funds exceeded appropriations at the year end of 2005. They are as follows:

Fund	Appropriations	Expenditures	Variance
Sanitary Sewer Fund	\$ 98,466	\$ 105,770	\$ (7,304)
Sewer Debt Fund	\$ -	\$ 13,346	\$ (13,346)

The Village should monitor the budgetary financial reports throughout the year to prevent budgetary expenditures from exceeding appropriations at the legal level of control. Instances where it appears appropriations are insufficient to meet the projected needs, the village should pass a resolution to amend appropriations. This analysis should also encompass a review of actual resources.

Village Response:

Amendments will be filed with the County Auditor when increased appropriations are required. No money will be expended until a certificate is received certifying the total appropriations from each fund does not exceed the total official estimate or amended official estimate.

FINDING NUMBER 2006-004

Noncompliance Citation – Ohio Rev. Code Section 5705.36

Ohio Rev. Code Section 5705.36 states, upon a determination by the fiscal officer of a subdivision that the revenue to be collected by the subdivision will be greater than the amount included in an official certificate and the legislative authority intends to appropriate and expend the excess revenue, the fiscal officer shall certify the amount of the excess to the commission, and if the commission determines that the fiscal officer's certification is reasonable, the commission shall certify an amended official certificate reflecting the excess.

Contrary to this requirement, the Village did not file amended certificates in 2005 for Debt Service fund receipts and in 2006 to account for Capital Project receipts.

The Village should monitor the budgetary financial reports throughout the year and amend estimated resources and appropriations, as needed by resolution.

Village Response:

Amendments will be filed with the County Auditor when revenue collected by the Village is greater than the amount included in the official certificate and the Village intends to appropriate and expend this excess.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-005

Noncompliance Citation – Ohio Rev. Code Section 5705.39

Ohio Rev. Code Section 5705.39 states total appropriation from each fund should not exceed the total estimated revenue. No appropriation measure is to become effective until the county auditor files a certificate that the total appropriations from each fund do not exceed the total official estimate or amended official estimate.

Contrary to this requirement, appropriations for the Capital Project Fund exceeded total estimated revenue for the year ended December 31, 2006.

The Village should monitor the budgetary financial reports throughout the year and amend estimated resources and appropriations, as needed by resolution.

Village Response:

Amendments will be filed with the County Auditor when appropriation increases are required. No money will be expended until a certificate is received certifying the total appropriations from each fund does not exceed the total official estimate or amended official estimate.

FINDING NUMBER 2006-006

Noncompliance Citation – Ohio Rev. Code Section 5705.40

Ohio Rev. Code Section 5705.40 states, any appropriation ordinance or measure may be amended or supplemented, provided that such amendment or supplement shall comply with all provisions of law governing the taxing authority in making an original appropriation and that no appropriation for any purpose shall be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation.

Contrary to this provision, appropriation ordinances were not amended for the Capital Project and Debt Service funds for 2005.

The Village should monitor the budgetary financial reports throughout the year and amend estimated resources and appropriations, as needed by resolution.

Village Response:

Amendments will be filed with the County Auditor when revenue collected by the Village is greater than the amount included in the official certificate and the Village intends to appropriate and expend this excess.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-007

Noncompliance Citation – Ohio Rev. Code Section 102.03 (D)

The Ohio Revised Code 102.03(D) prohibits an official from using the authority or influence of his public position, formally or informally, in any issue or question or other matter that would render a definite and direct financial benefit or detriment to the value of property in which he has an interest. Revised Code 102.03(E) prohibits the official from soliciting a particular and definite benefit to the value of property he owns.

Revised Code 102.03(D) prohibits an official from taking any formal or informal action on any matter that would provide a definite, pecuniary benefit or detriment to property he owns. The official is prohibited from:

- voting;
- participating in discussions;
- participating in deliberations;
- making recommendations;
- providing advice, and
- formally or informally lobbying.

On March 2, 2006, a motion was unanimously passed by Village Council approving the installation of a tile drain at the request of two councilmen, Mr. and Mrs. Paul Mueller. The Muellers agreed to pay for the installation of the drain and the Village agreed to pay for a riser. Both Mr. and Mrs. Mueller voted on the motion.

We recommend the Village adopt a conflict of interest policy to help educate and instruct Village employees, whether appointed, elected or employed, on the ethics laws governing their actions and responsibilities.

Village Response:

Council members will abstain from making motions or voting on any matter that would provide a benefit to the member or his property.

FINDING NUMBER 2006-008

Noncompliance Citation – United States Code 1.6041-1

U.S.C. 1.6041-1 states that a Village must report any sub-contractor payments totally \$600 or more in a year to the IRS on form 1099s-Misc Income. Also, Section 6045(f) provides for information reporting for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-008 (Continued)

In 2006 and 2005, sub-contractor and attorney payments were unreported to the IRS in the amounts of \$3,584 and \$8,106, respectively.

We recommend the Village obtain a copy of the federal tax identification number or social security number of each service vendor or sub-contractor and report payments of \$600 or more on an IRS 1099s-misc form each calendar year.

Village Response:

1099s will be issued to any non incorporated subcontractor paid \$600 or more each calendar year.

FINDING NUMBER 2006-009

Classification of Revenue and Expenditures – Significant Deficiency

The receipts and appropriation ledger accounts are not properly coded according to Auditor of State (AOS) Standards, making it difficult to distinguish between separate subsidiary accounts.

All revenue and expenditures should be posted in accordance with the Auditor of State Account Codes and reflect gross amounts. Failure to post receipts and expenditures to the correct funds could result in material misstatements on the financial statements.

We recommend procedures be implemented to help assure that all receipts and expenditures are posted to the accurate fund according to the AOS Village Handbook codes to assure proper classification of revenue and expenditures.

Village Response:

The Village will obtain a current AOS Village Handbook and implement procedures to help assurance compliance.

FINDING NUMBER 2006-010

Misclassification of Expenditures resulting in Prior Period Adjustment – Material Weakness

The AICPA establishes auditing standards generally accepted in the United States that certified public accountants and government auditors must follow in conducting audits of state and local governments. SAS No. 112 establishes standards, responsibilities and guidance for auditor during a financial statements audit engagement for identifying and evaluating a client's internal control over financial reporting. This new standard requires the audit to report *in writing* to management and the governing body any control deficiencies found during the audit that are considered significant deficiencies and/or material weaknesses.

During 2004, the Village erroneously made expenditures for sewer project expenses from the General Fund. A prior period adjustment was approved by Council, increasing the January 1, 2005 beginning

**VILLAGE OF NEW WESTON
DARKE COUNTY**

**SCHEDULE OF FINDINGS AND RESPONSES
DECEMBER 31, 2006 AND 2005**

1. FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS

FINDING NUMBER 2006-010 (Continued)

balance of the General Fund by \$40,000 and decreasing the January 1, 2005 beginning balance of the Capital Project Fund by \$40,000. (Note 9 to the Financial Statements)

We recommend the Village implement control procedures related to financial reporting that enable management to identify, prevent, detect, and correct potential misstatements in the financial statements and footnotes.

Village Response:

At the time vouchers are presented for payment to Village Council, fund information will be provided to help assure any discrepancies are corrected prior to payment.

Village of New Weston
Darke County
Schedule of Prior Audit Findings
For the Fiscal Years Ended December 31, 2006 and 2005

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; Explain:
2004-001	Revised Code Section 5705.41 (D), failure to certify the availability of funds prior to incurring obligations.	No	Not corrected, reissued as Finding 2006-002.
2004-002	Revised Code Section 5705.41 (B), expenditures exceeding appropriations.	No	Not corrected, reissued as Finding 2006-003.



Mary Taylor, CPA
Auditor of State

VILLAGE OF NEW WESTON

DARKE COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
JULY 8, 2008**