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November 14, 2014

Honorable Judy Kennedy, Mayor  
Members of the City Council  
City of Newburgh  
83 Broadway  
Newburgh, NY 12550

Report Number: B6-14-25

Dear Mayor Kennedy and Members of the City Council:

Chapter 223 of the Laws of 2010 authorizes the City of Newburgh to issue debt totaling \$15 million to liquidate the accumulated deficit in the City's general fund as of December 31, 2010. Chapter 223 also requires the City to submit to the State Comptroller each year, starting with the fiscal year during which it was authorized to issue obligations and for each subsequent fiscal year during which the deficit obligations are outstanding, its proposed budget for the next succeeding fiscal year.

The budget must be submitted no later than 30 days before the date scheduled for the governing board's vote on its adoption of the budget or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller must examine the proposed budget and make recommendations for any changes that are needed to bring the proposed budget into balance. Such recommendations are made after the examination into the estimates of revenues and expenditures of the City.

The City Council, no later than five days prior to the adoption of the budget, must review all recommendations made by the State Comptroller and make adjustments to its proposed budget consistent with the recommendations contained in this report.

Our Office has recently completed a review of the City's budget for the 2015 fiscal year. The objective of the review was to provide an independent evaluation of the proposed budget. Our review addressed the following question related to the City's 2015 budget:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

To accomplish our objective in this review, we requested your proposed budget, salary schedules, debt payment schedules and other pertinent information. We identified and examined significant estimated revenues and expenditures for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We analyzed, verified and/or corroborated trend data and estimates, where appropriate. We identified any significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items and to assess whether the estimate was realistic and reasonable. We also evaluated the amount of fund balance appropriated in the proposed budget to be used as a financing source and determined if the amount of fund balance was available and sufficient for that purpose. In addition, we inquired and checked whether written recommendations from the prior year’s budget review were implemented or resolved and, therefore, incorporated as part of the current year’s budget.

The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS). We do not offer comments or make specific recommendations on public policy decisions, such as the type and level of services under consideration to be provided.

The proposed budget package submitted for review for the fiscal year 2015 consisted of the following:

- Cover letter
- 2015 Proposed budget
- Supplementary information

The proposed budget submitted to our Office is summarized as follows:

| <b>Figure 1: Proposed Budget Summary</b> |  |                           |                                  |                            |
|--|--|---------------------------|----------------------------------|----------------------------|
| <b>Fund</b>                              | <b>Appropriation and Provisions for Other Uses</b> | <b>Estimated Revenues</b> | <b>Appropriated Fund Balance</b> | <b>Real Property Taxes</b> |
| General                                  | \$43,341,387                                       | \$22,742,823              | \$736,000                        | \$19,862,564               |
| Water                                    | \$5,738,512  | \$5,738,512               | \$0                              | \$0                        |
| Sewer                                    | \$5,423,613  | \$5,423,613               | \$0                              | \$0                        |
| Sanitation                               | \$3,271,700  | \$3,271,700               | \$0                              | \$0                        |

Based on the results of our review, we found that the significant revenue and expenditure projections in the proposed budget are reasonable, except for appropriations for grant proceeds, contingency appropriations, an allowance for uncollectible taxes and the potential impact of settlements of expired collective bargaining agreements.

### **Police Appropriations**

The City will receive \$500,000 from the U.S. Department of Justice in grant money to fund a Community Oriented Policing Services (COPS) program over three years. The grant requires the City to contribute 25 percent of the costs for the program each year, which is approximately \$42,000 annually. The City has not included an appropriation in the budget to cover this amount.

We recommend that City officials include an appropriation to cover the City's required contribution.

In addition, the City will receive \$2.4 million in funding from two other federal grants totaling \$324,550 for July 1, 2014 through June 30, 2015. One grant is for the Staffing for Adequate Fire and Emergency Response (SAFER) program to fund the salaries for a three-year period for 15 new firefighters hired in November 2013. The other grant is for the Gun Involved Violence Elimination (GIVE) program. Although these two programs will receive full funding in the 2015 fiscal year, revenues and expenditures related to these programs are not included in the City's 2015 budget. To enhance transparency, we recommend that City officials include the revenues and associated appropriations related to the SAFER and GIVE grants.

### **Contingency**

Contingency accounts are used by local governments as a means of providing funding for unexpected events. Although the City Charter does not specifically address budgeting for contingencies, New York State statutes for certain other classes of local government set the maximum dollar amount for these accounts at 10 percent of the general fund budget (excluding appropriations for debt service), which can serve as a general guideline for the City. The City's proposed budget includes a \$300,000 contingency appropriation, an amount that represents 0.7 percent of total anticipated general fund expenditures. In reviewing the adequacy of contingency appropriations, it is important that the City Council prudently consider current economic conditions and uncertainties and the need to provide adequate funding for any significant unforeseen costs.

Over the past several years, the City has consistently budgeted minimal amounts for contingencies. We caution the City against including an insufficient amount in the contingency appropriation, because it will provide the City with minimal flexibility to address revenue shortfalls or unforeseen expenditures.

### **Tax Overlay**

The City has not made an allowance for uncollectible taxes in the 2015 proposed budget. City officials feel that the \$300,000 contingency appropriation in the proposed budget will cover any uncollected taxes. However, the average actual annual amount of uncollected taxes from fiscal years 2010 through 2013 was approximately \$1 million. Therefore, it is unlikely that the contingency appropriation will be sufficient to cover uncollected taxes. In addition, using the contingency appropriation to cover uncollectible taxes will likely leave the City with little flexibility to address other revenue shortfalls or unforeseen expenditures. We recommend that City officials consider including an appropriation for uncollectible taxes or increasing the contingency appropriation.

### **Collective Bargaining Agreements**

The City currently has three different contracts with various employee unions which have expired (Figure 2) and is currently negotiating with the respective bargaining units for new contracts.

Without current employee contracts in place, the City faces potential increased salary costs when these contracts are settled. We recommend that City officials consider the potential financial impacts of contract settlements when finalizing the 2015 budget.

| <b>Figure 2: Union Contract Expiration Dates</b> |                                 |
|--|---------------------------------|
| <b>Union</b>                                     | <b>Contract Expiration Date</b> |
| Civil Service Employees Association              | 12/31/2010                      |
| Patrolmen’s Benevolent Association               | 12/31/2012                      |
| Police Superior Officer Association              | 12/31/2010                      |

**Tax Cap Compliance**

The State Legislature and the Governor enacted Chapter 97 of the Laws of 2011 that established a tax levy limit on all local governments, which was effective beginning in the 2012 fiscal year. The law precludes local governments from adopting a budget that requires a tax levy that exceeds the prior year tax levy by more than 2 percent or the rate of inflation, whichever is less, unless the governing board adopts a local law to override the tax levy limitation.

The City’s proposed budget complies with the tax levy limit because it includes a tax levy of \$19,862,564, which is same as the 2014 tax levy. In adopting the 2015 budget, the City Council should be mindful of the legal requirement to maintain the tax levy increase to no more than the tax levy limit as permitted by law, unless it adopts a local law to override the cap.

As noted previously, the City Council has the responsibility to initiate corrective action to address the recommendations in this report. We request that you provide us with a copy of the adopted budget.

In addition, pursuant to Section 35 of General Municipal Law, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days. We encourage the Board to make this plan available for public review in the City Clerk’s office. For guidance in preparing your plan of action and filing this report, please refer to the attached documents.

We hope that this information is useful as you adopt the upcoming budget for the City. If you have any questions on the scope of our work, please feel free to contact Tenneh Blamah, Chief Examiner of the Newburgh office, at (845) 567-0858.

Sincerely,

Gabriel F. Deyo

cc: Michael G. Ciaravino, City Manager  
John Aber, City Comptroller  
Lorene Vitek, City Clerk  
Hon. John A. DeFrancisco, NYS Senate, Finance Committee  
Hon. Herman D. Farrell, Jr., NYS Assembly, Ways and Means Committee  
Hon. Frank Skartados, NYS Assembly  
Hon. William J. Larkin, Jr., NYS Senate  
Robert L. Megna, Director, Division of the Budget  
Tenneh Blamah, Chief Examiner