



**THOMAS P. DiNAPOLI**  
STATE COMPTROLLER

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
110 STATE STREET  
ALBANY, NEW YORK 12236

**ELLIOTT AUERBACH**  
DEPUTY COMPTROLLER  
DIVISION OF LOCAL GOVERNMENT  
AND SCHOOL ACCOUNTABILITY  
Tel: (518) 474-4037 Fax: (518) 486-6479

November 13, 2020

Honorable Torrance Harvey, Mayor  
Members of the City Council  
City of Newburgh  
83 Broadway  
Newburgh, NY 12550

Report Number: B20-6-12

Dear Mayor Harvey and Members of the City Council:

Chapter 223 of the Laws of 2010 (Chapter 223) authorizes the City of Newburgh to issue debt not to exceed \$15 million to liquidate the accumulated deficit in the City's general fund as of December 31, 2010. During the time that Chapter 223 is in effect, the City's proposed annual budgets must be submitted to the State Comptroller for examination and recommendations.

The proposed budget must be submitted no later than 30 days before the date scheduled for the governing board's vote on the adoption of the final 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, as deemed appropriate. Recommendations, if any, are made after the examination into the City's estimates of revenues and expenditures.

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 must make adjustments to its proposed budget consistent with those recommendations contained in this report.

Our office has recently completed a review of the City's proposed budget for the 2021 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 budget for the upcoming fiscal year:

- 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 estimates were 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 whether the amount of fund balance was available and sufficient for that purpose.

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 2021 fiscal year consisted of the following:

- Cover Letter
- 2021 Proposed Budget
- Supplementary Information

The proposed budget submitted to our Office is summarized in Figure 1:

<b>Figure 1: 2021 Proposed Budget</b>					
<b>Fund</b>	<b>Appropriations and Provisions for Other Uses</b>	<b>Estimated Revenues</b>	<b>Appropriated Fund Balance</b>	<b>Fund Transfers In (Out)</b>	<b>Real Property Taxes</b>
General	\$46,708,330	\$19,359,766	\$2,800,000	\$2,336,949	\$22,211,615
Water	5,907,231	6,527,464	510,700	(1,130,933)	0
Sewer	7,489,234	7,549,455	1,283,601	(1,343,822)	0
Sanitation	4,164,792	5,028,763	0	(863,971)	0
Self-Insurance	2,796,572	0	0	2,796,572	0
<b>Total</b>	<b>\$67,066,159</b>	<b>\$38,465,448</b>	<b>\$4,594,301</b>	<b>\$1,794,795</b>	<b>\$22,211,615</b>

Our review disclosed the following matters which should be reviewed by City officials for appropriate action. Chapter 223 requires the City Council to make adjustments to the proposed budget consistent with our recommendations. We believe that such adjustments will help improve the City’s financial condition. Additionally, our review considered City officials’ planning in response to economic impacts of COVID-19 on revenue and expenditure trends. However, due to the continuously evolving circumstances, City officials should carefully monitor revenues and expenditures and make adjustments to the budget as needed throughout the year as more information becomes available.

## Nonrecurring Funding Sources

Fund Balance – The City is appropriating \$2.8 million of its projected unassigned general fund balance of \$10.3 million at the end of the 2020 fiscal year. In addition to appropriating fund balance in the general fund, the City has appropriated approximately \$511,000 of water fund balance, and \$1.3 million of sewer fund balance.

The City’s use of fund balance to close gaps in the budget decreases the fund balance that is available to cover unforeseen circumstances, shortfalls in revenue or cash flow needs. It also exposes the City to cash shortages that will impact operations. Continuous use of fund balance leaves the City without a cushion against unexpected costs or contingencies that may occur. City officials may have to replace this nonrecurring revenue in the 2022 budget.

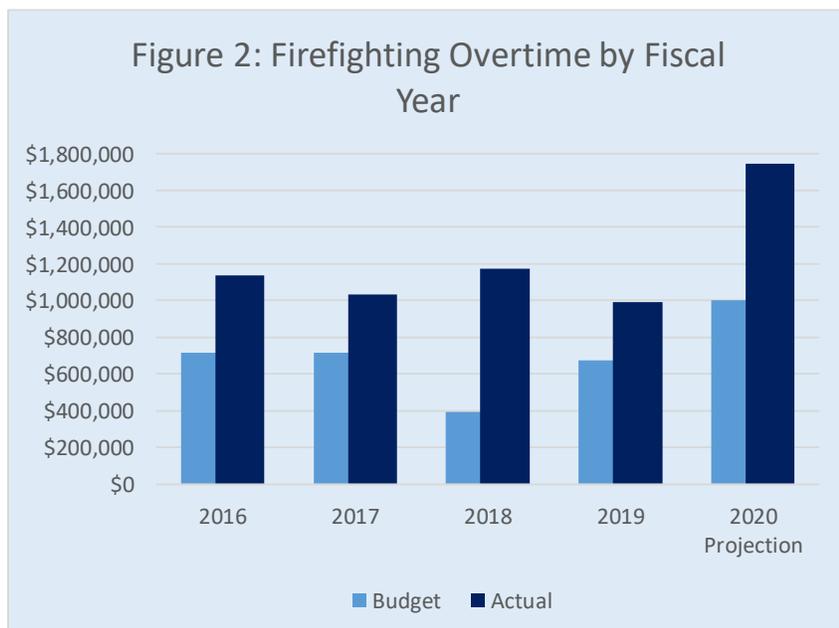
## Revenues

Sales and Use Tax – The 2021 proposed budget includes City sales and use tax revenues of approximately \$10.4 million. We based our 2021 projection on 2020 revenue projections of \$10.2 million with no increase based on the continued decline of sales tax revenue. The City could potentially face a shortfall of \$234,000 if revenue estimates are not realized. City officials should reassess whether this increase is achievable and, if not, lower the sales and use tax revenue estimate.

Sale of Metered Water – The 2021 proposed budget includes metered water sales revenue of approximately \$5.3 million, which is an increase of approximately \$855,000 from the amount collected in the 2019 fiscal year. The City plans to increase rates for metered water sales by 14 percent. The amount appears reasonable, but requires the City Council to pass a resolution to raise water rates prior to the adoption of the budget. If rates are not increased, City officials should lower the estimates for the sale of metered water revenue.

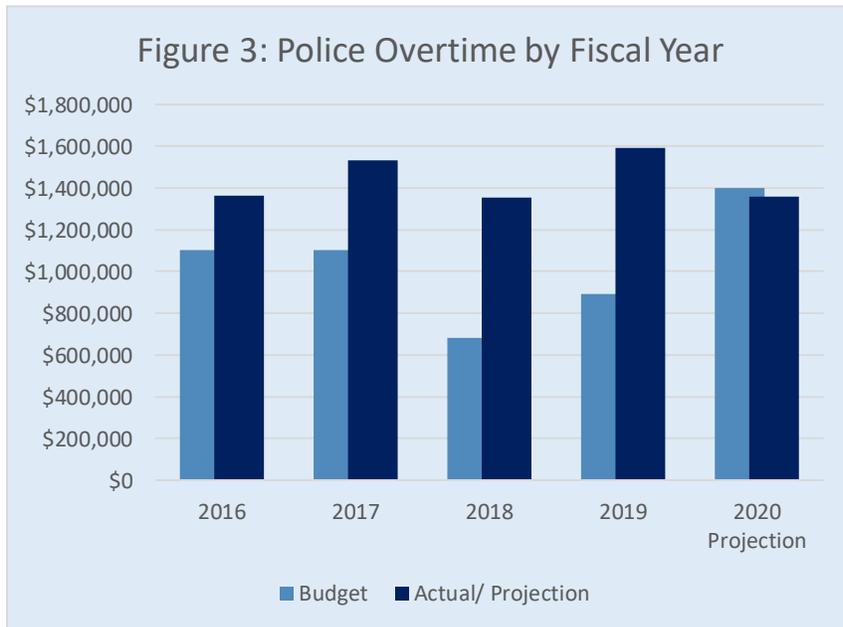
## Expenditures

Firefighting Overtime – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for firefighting overtime costs. The City’s 2021 proposed budget includes overtime funding of \$1.2 million for the fire department. The City spent \$992,000 on firefighting overtime in 2019 and approximately \$1.3 million in 2020 (as of September 30, 2020). Based



on our projections, the City will spend approximately \$1.7 million on firefighting overtime in the 2020 fiscal year. The City has not implemented changes in procedures to reduce overtime. Therefore, it is likely the historical trends will continue or be greater, which means the appropriation for overtime is likely underestimated by at least \$544,000 (Figure 2).

**Police Overtime** – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for police overtime costs. The City’s 2021 proposed budget includes overtime funding of \$1.1 million for the police department. The City spent \$1.6 million on police overtime



in 2019 and approximately \$959,000 in 2020 (as of September 30, 2020). Based on our projections, the City will spend approximately \$1.4 million on police overtime in the 2020 fiscal year. The City has not implemented changes in procedures to reduce overtime. Therefore, it is likely the historical trends will continue or be greater, which means the appropriation for overtime is likely underestimated by at least \$258,000 (Figure 3).

**Contingency** – Contingency accounts are used by local governments as a means of providing funding for unexpected events. The City’s proposed budget includes a \$344,377 contingency appropriation, or 0.7 percent of the general fund anticipated expenditures. In reviewing the adequacy of the contingency appropriation, the City Council should consider the current economic conditions and uncertainties and the need to provide adequate funding for any significant unforeseen costs.

**Other Matters**

**Constitutional Tax Limit** – The Constitutional Tax Limit (CTL) is the maximum amount of real property tax that may be levied in any fiscal year. The State Constitution limits the taxing power of cities to 2 percent of the five-year average full valuation of the City’s taxable real property. Under the 2021 proposed budget, the City will have exhausted at least 92.2 percent of its CTL.

We caution the City that if property values do not increase, its ability to increase taxes may be reduced in future years and that if the adopted levy increases to above 100 percent of the CTL, the City will exceed its CTL and could lose some of its State funding.

## **Tax Cap Compliance**

General Municipal Law Section 3-c establishes a tax levy limit for local governments. The law generally precludes local governments from adopting a budget with 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 limit. In adopting the 2021 budget, the City Council should be mindful of the legal requirement to adopt a budget that includes a tax levy no greater than the tax levy limit as permitted by law, unless it adopts a local law to override the limit prior to adopting the budget.

## **Recommendations**

The City Council should:

1. Pass a resolution to raise water rates prior to the adoption of the budget or lower the estimate for Sale of Metered Water.
2. Adopt a budget that includes a tax levy not greater than the Constitutional Tax Limit.
3. Adopt a budget that includes a tax levy no greater than the tax levy limit (tax cap), unless a local law is adopted to override the limit.

City Officials should:

4. Develop a plan to maintain fund balance at a reasonable level to ensure funds are available in case of unanticipated expenditures or a shortfall in revenues during the fiscal year.
5. Review the estimate for Sales and Use Tax revenue and amend as necessary.
6. Review the estimates for firefighting and police overtime and increase it to an appropriate level or implement changes in procedures to manage costs within budgeted amounts.
7. Review the estimate for contingency and adjust it to an appropriate level if needed.

We request that you provide us with a copy of the adopted budget.

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 Lisa Reynolds, Chief Examiner of the Newburgh office, at (845) 567-0858.

Sincerely,

Elliott Auerbach  
Deputy Comptroller

cc: Joseph P. Donat, City Manager  
Todd Venning, City Comptroller  
Lorene Vitek, City Clerk  
Hon. Liz Krueger, Chair, NYS Senate Finance Committee  
Hon. Helene E. Weinstein, Chair, NYS Assembly Ways and Means Committee  
Hon. Carl E. Heastie, Speaker of the House, NYS Assembly  
Hon. Andrea Stewart-Cousins, Majority Leader, NYS Senate  
Robert F. Mujica Jr., Director, NYS Division of the Budget  
Lisa Reynolds, Chief Examiner