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November 10, 2021

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

Report Number: B21-6-13

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 2022 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?

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.

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. Lastly, we compared the proposed tax levy with the City’s tax levy limit.

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 2022 fiscal year consisted of the following:

- Cover Letter
- 2022 Proposed Budget
- Supplementary Information

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

<b>Figure 1: 2022 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	\$53,677,889	\$28,867,062	\$2,600,000	(\$812,734)	\$23,023,561
Sewer	\$10,198,190	\$8,283,159	\$3,488,769	(\$1,573,738)	\$0
Water	\$6,192,226	\$7,320,293	\$106,023	(\$1,234,090)	\$0
Sanitation	\$4,245,727	\$5,272,241	\$0	(\$1,026,514)	\$0
Self-Insurance	\$2,990,222	\$0	\$1,100,000	\$1,890,222	\$0
<b>Total</b>	<b>\$77,304,254</b>	<b>\$49,742,755</b>	<b>\$7,294,792</b>	<b>(\$2,756,854)</b>	<b>\$23,023,561</b>

**Nonrecurring Funding Sources**

Fund Balance – The City is appropriating \$2.6 million of its projected unassigned general fund balance of \$10.9 million at the end of the 2021 fiscal year. In addition to appropriating fund balance in the general fund, the City has appropriated approximately \$3.5 million of sewer fund balance, \$106,000 of water fund balance and \$1.1 million of self-insurance fund balance (Figure 2).

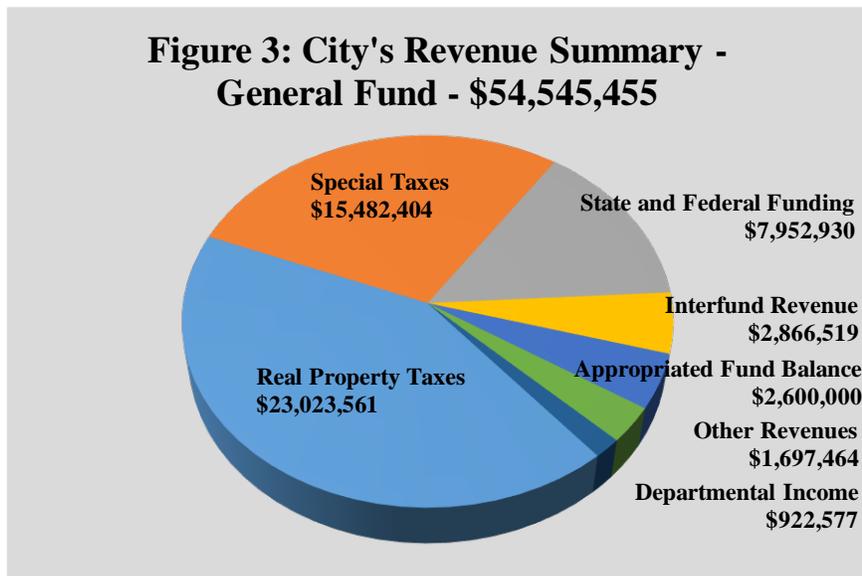
<b>Figure 2: Fund Balance</b>			
<b>Fund</b>	<b>Fund Balance Appropriated</b>	<b>Projected Fund Balance Available</b>	<b>Percent Used</b>
<b>General</b>	\$2,600,000	\$10,897,162	24%
<b>Sewer</b>	\$3,488,769	\$8,119,341	43%
<b>Water</b>	\$106,023	\$1,318,163	8%
<b>Sanitation</b>	\$0	(\$701,239)	0%
<b>Self-Insurance</b>	\$1,100,000	\$2,745,596	40%

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 2023 budget.

**Revenues**

The proposed budget submitted to our Office for the City’s general fund revenues is summarized in Figure 3.

Parking Violation Fines – The 2022 proposed budget includes parking violation fines revenue of approximately \$740,000, which is an increase of approximately \$286,000 from the amount collected in the 2020 fiscal year. We project that the City will receive approximately \$554,000 in the 2022 fiscal year based on 2021 projections with no change. The City could potentially face a shortfall of \$186,000 if revenue estimates are not realized.



User Fee - Sanitation – The 2022 proposed budget includes user fee – sanitation revenue of approximately \$5.2 million, which is an increase of approximately \$229,000 from the amount

collected in the 2020 fiscal year. We project that the City will receive approximately \$5 million in the 2022 fiscal year based on 2021 projections with no change. The City could potentially face a shortfall of \$176,000 if revenue estimates are not realized.

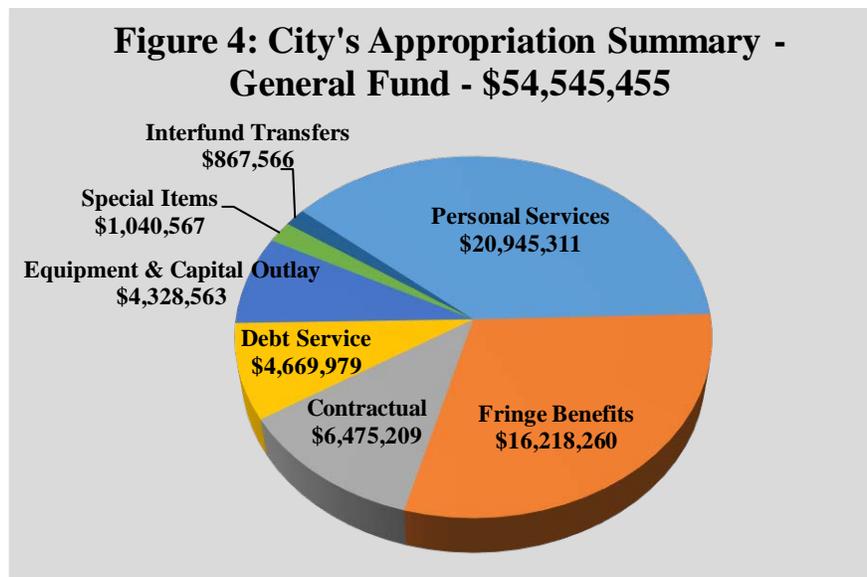
Sewer Usage – The 2022 proposed budget includes sewer usage revenue of approximately \$6.8 million, which is an increase of approximately \$1.4 million from the amount collected in the 2020 fiscal year. The City plans to increase rates for sewer usage by 6 percent. We project that the City will receive approximately \$6.7 million in the 2021 fiscal year. If rates are increased the amount could still potentially face a shortfall of \$128,000 if revenue estimates are not realized.

Sale of Metered Water – The 2022 proposed budget includes sale of metered water revenue of \$5.6 million, which is an increase of approximately \$1 million from the amount collected in the 2020 fiscal year. The City plans to increase rates for sale of metered water by 6 percent. We project that the City will receive approximately \$5.3 million in the 2021 fiscal year. If rates are increased the amount appears reasonable but requires the City Council to pass a resolution to raise water rates prior to the adoption of the budget.

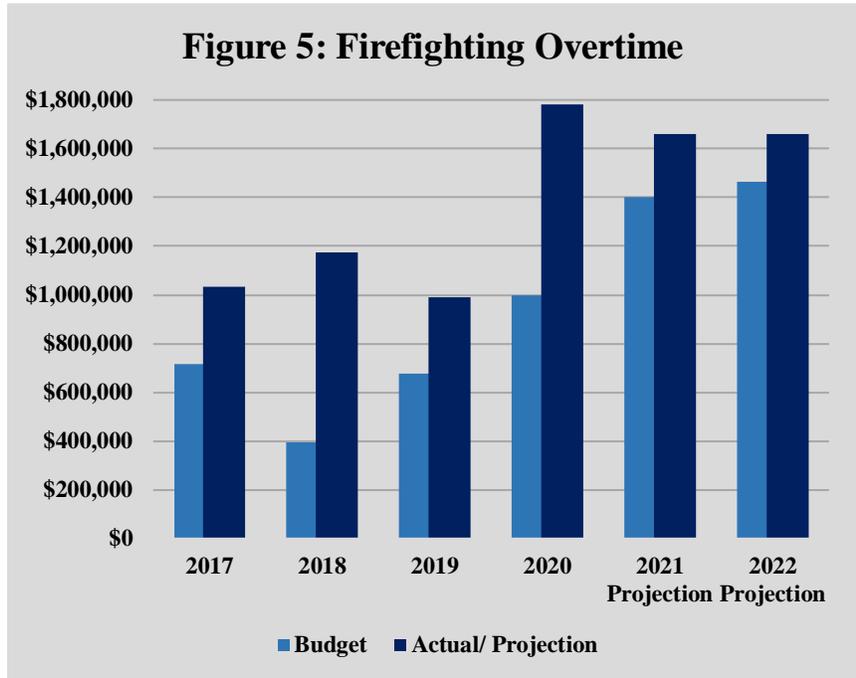
### Expenditures

The proposed budget submitted to our Office for the City’s general fund appropriations is summarized in Figure 4.

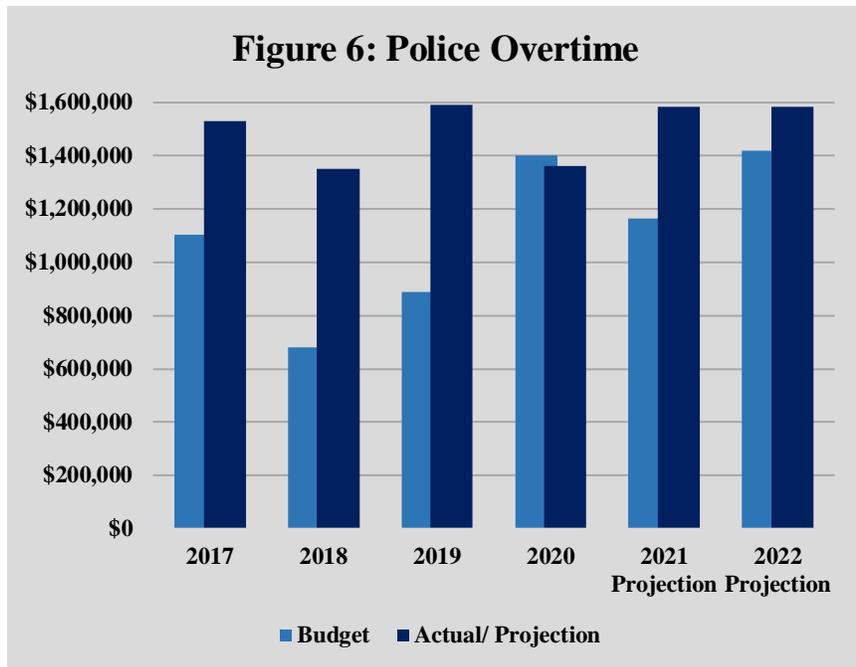
Health Insurance – The City budgeted \$11.6 million for health insurance in its 2022 proposed budget. However, the estimate provided to us by the City indicates the estimated health insurance costs to be \$12 million using an increased rate of 7 percent. Therefore, based on projections, it appears the appropriation is likely underestimated by \$442,000.



Firefighting Overtime – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for firefighting overtime costs. The City’s 2022 proposed budget includes overtime funding of \$1.5 million for the fire department. The City spent \$1.8 million on firefighting overtime in 2020 and approximately \$1.2 million as of September 30, 2021. Based on our projections, the City will spend approximately \$1.7 million on firefighting overtime in the 2021 fiscal year. Based on historical trends, we projected the City will spend the same as 2021 projections, which means the appropriation for overtime is likely underestimated by at least \$193,000 (Figure 5).



Police Overtime– In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for police overtime costs. The City’s 2022 proposed budget includes overtime funding of \$1.4 million for the police department. The City spent \$1.4 million on police overtime in 2020 and approximately \$1.1 million as of September 30, 2021. Based on our projections, the City will spend approximately \$1.6 million on police overtime in the 2021 fiscal year. Based on historical trends, we projected the City will spend the same as 2021 projections, which means the appropriation for overtime is likely underestimated by at least \$166,000 (Figure 6).



Contractual Settlements – As of the time of our review, all four of the City’s collective bargaining agreements (CBAs) are set to expire at the end of 2021 (Figure 7). The City faces potential increased salary and wage costs when these agreements are settled.

<b>Figure 7: CBAs with December 31, 2021 Expiration Date</b>	
	<b>Bargaining Unit</b>
	Civil Service Employees Association, Local 1000 (CSEA)
	Local 589 International Association of Fire Fighters (IAFF)
	Patrolmen’s Benevolent Association of Newburgh (PBA)
	Police Supervisor Officers Association (PSOA)

The proposed budget includes contractual appropriations of \$1 million across all funds to provide some financial flexibility in the funds related

to any settlements. However, the City officials should consider the potential financial impact in the event that any of the CBAs are settled in 2022.

Contingency – Contingency accounts are used by local governments as a means of providing funding for unexpected events. The City’s proposed budget does not include a contingency appropriation in the general fund. In light of recent economic conditions, it would be prudent for City officials to have contingency funding available for unforeseen increases in expenditures or revenue shortfalls. City officials should establish a contingency appropriation at a level that would provide the City with flexibility in the event that it has to deal with unanticipated expenditures or revenue shortfalls.

**Other Matters**

Tax Overlay – It is important for City officials to make necessary adjustments to the tax levy each year to ensure that the full budgeted property tax revenue is collected, especially when they are responsible to enforce unpaid tax amounts for the school and county. These adjustments are known as a tax overlay, which is the amount of taxes estimated to be uncollected and unavailable to finance budgetary appropriations. Adding the tax overlay to the original calculated amount that is needed to operate the City determines the actual amount of the current year’s tax levy.

The proposed budget does not include a tax overlay, which could potentially create a shortfall in revenue in 2022. The City budgeted for a tax overlay of approximately \$1.1 million in the 2021 adopted budget. In light of recent economic conditions, it would be prudent for City officials to budget for a tax overlay. City officials should reassess whether 100 percent property tax collection is achievable and, if not, estimate a tax overlay at an appropriate level.

**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 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 limit.

The City's proposed 2022 budget includes a tax levy of \$23,023,561, which is \$33,061 from exceeding the tax levy limit. In adopting the 2022 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, unless it adopts a local law to override the limit.

## **Recommendations**

The City Council should:

1. Lower the estimate for sale of metered water or pass a resolution to raise water rates prior to the adoption of the budget.
2. 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:

3. 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.
4. Review the estimate for parking violation fines revenue and amend as necessary.
5. Review the estimate for user fee - sanitation revenue and amend as necessary.
6. Review the estimate for sewer usage revenue and amend as necessary.
7. Review the estimate for health insurance and increase it to an appropriate level as necessary.
8. 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.
9. Review the estimate of employees' contractual appropriations and adjust it to an appropriate level as necessary.
10. Consider including a reasonable estimate for contingencies in the budget.
11. Consider establishing a reasonable estimate for a tax overlay in the budget.

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: Todd Venning, City Manager  
Janice Gaston, City Comptroller  
Lorene Vitek, City Clerk  
Hon. Carl E. Heastie, Speaker of the House, NYS Assembly  
Hon. Crystal Peoples-Stokes, Majority Leader, NYS Assembly  
Hon. William Barclay, Minority Leader, NYS Assembly  
Hon. Helene E. Weinstein, Chair, NYS Assembly Ways and Means Committee  
Hon. Andrea Stewart-Cousins, President Pro Tempore and Majority Leader, NYS Senate  
Hon. Robert Ort, Minority Leader, NYS Senate  
Hon. Liz Krueger, Chair, NYS Senate Finance Committee  
Robert F. Mujica Jr., Director, NYS Division of the Budget  
Elliott Auerbach, Deputy Comptroller  
Lisa Reynolds, Chief Examiner