



**THOMAS P. DiNAPOLI**  
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

April 16, 2021

Honorable Shawyn Patterson-Howard, Mayor  
Honorable Deborah Reynolds, Comptroller  
City Council Members  
City of Mount Vernon  
1 Roosevelt Square North  
Mount Vernon, NY 10550

Report Number: B21-6-3

Dear Mayor Patterson-Howard, Comptroller Reynolds and Members of the City Council:

Our Office has recently completed a review of the City of Mount Vernon (City) budget for the 2021 fiscal year. The objective of the review was to provide an independent evaluation of the adopted budget. Our review addressed the following question related to the City's budget for the current fiscal year:

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

Based on the results of our review, we found that significant revenue and expenditure projections in the adopted budget are not reasonable. We also found that the City's budget was adopted 81 days late.

The observations and recommendations resulting from our review are, to a great extent, influenced by the quality and quantity of materials submitted. As explained below, there were some limitations to our review due to City officials not providing information to support budgetary estimates.

To accomplish our objectives in this review, we requested the City's 2021 adopted 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 and available. 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 adopted budget to be used as a financing source to determine whether it was reasonable.

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 adopted budget package submitted for review for the 2021 fiscal year consisted of the following:

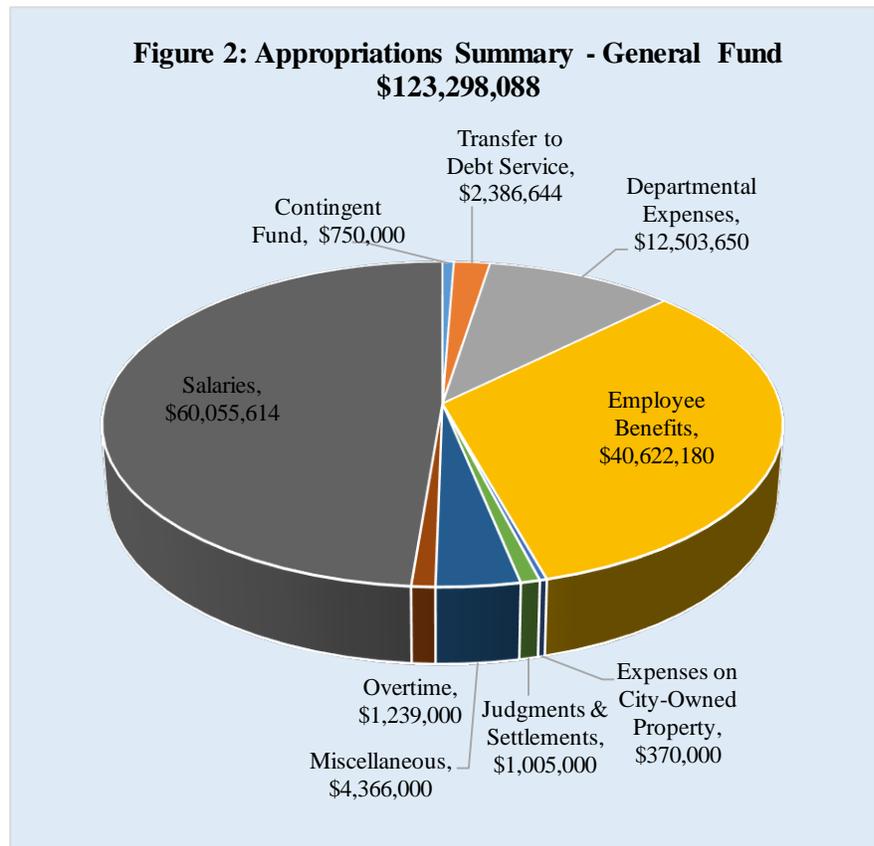
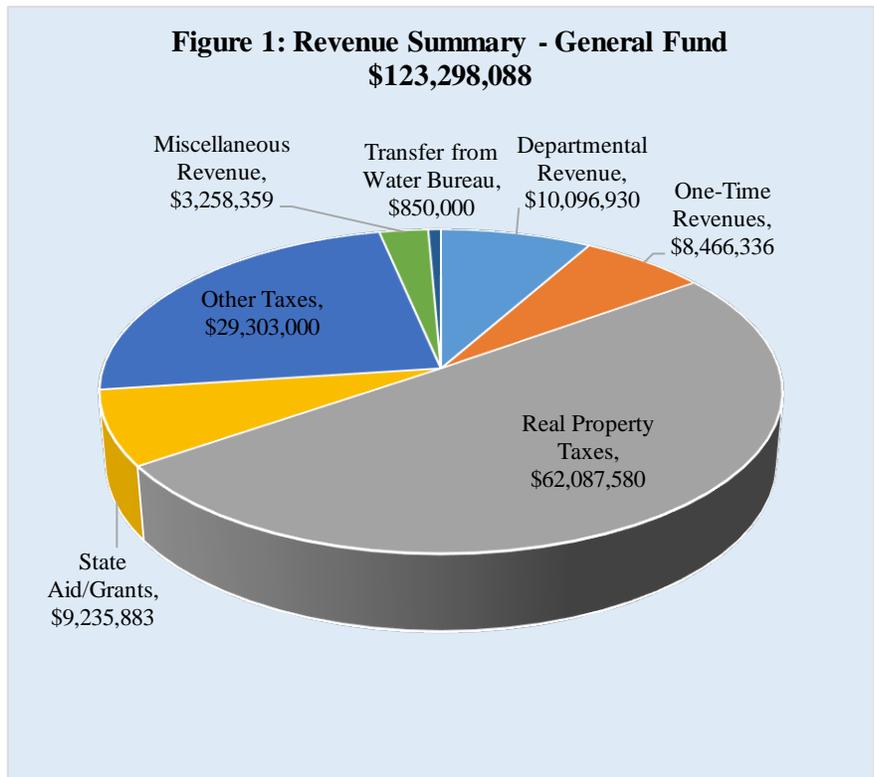
- Budget Summary
- 2021 Adopted Budget
- Supplementary Information

The adopted budget submitted to our Office is summarized in Figures 1 and 2.

Our review disclosed the following findings which should be reviewed by City officials for appropriate action. Good management practices require that City officials take prompt action concerning our recommendations. We believe that their prompt action will help improve the City's financial condition.

**Nonrecurring Funding Sources**

Fund Balance – The City appropriated approximately



\$4.77 million of fund balance in its 2021 adopted budget. However, City officials cannot be certain that this fund balance is available due to the lack of financial information available during the budget's development, including fund balance projections. While City financial statements have not been issued since 2015, the City Comptroller (Comptroller) should have been able to provide fund balance projections based on prior years' unaudited operating results.

By not knowing current fund balance levels, City officials' ability to react to unanticipated expenditures or shortfalls in revenues is limited. Appropriating fund balance that may not be available could lead the City into a fund balance deficit. If this fund balance is in fact available, City officials will have to replace this nonrecurring revenue in the 2022 budget.

Sale of Real Property – The City's budget relies on \$3.7 million for the sale of property, which includes \$2.3 million for City-owned property and \$1.4 million for tax-acquired property. City officials must follow provisions set forth in the City's Charter and Administrative Code before these sales can be realized. The City could experience a revenue shortfall if these sales do not occur.

Further, the sale of property is a one-time revenue and should not be used to finance recurring expenditures. Using one-time revenues to finance recurring expenditures could create fiscal problems, because future budgets would require new revenues to compensate for past one-time revenues.

## **Revenues**

Real Estate Transfer Tax – The City's adopted budget includes \$2.9 million for real estate transfer tax revenue. However, the City has no supporting data, such as prior year actuals, for the amount budgeted. Therefore, we could not determine whether this revenue estimate is reasonable because there was no trend data available to analyze or corroborate. A revenue shortfall could occur if this estimate is not realized.

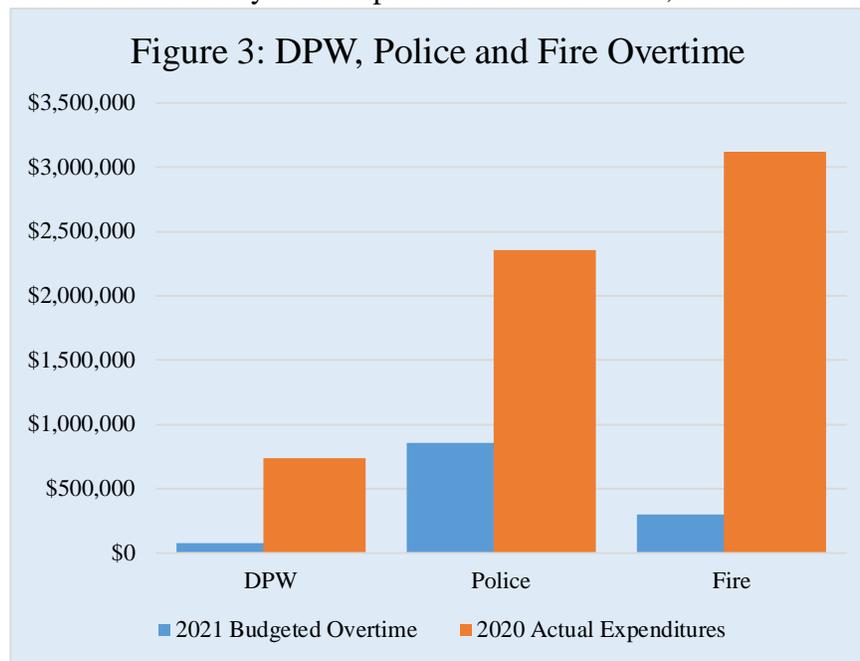
Mortgage Tax – The City's adopted budget includes \$1.5 million for mortgage tax revenue. However, the City had no support, such as prior year actuals, for the amount budgeted. Therefore, we could not determine whether this revenue estimate is reasonable because there was no trend data available to analyze or corroborate. A revenue shortfall could occur if this estimate is not realized.

Court Fees – The City's adopted budget includes \$2.5 million for the City's share of fees collected by the City Court, which is an \$850,000 reduction from 2020. However, City officials provided a revenue summary report from the City Court which showed that only approximately \$90,000 was collected for the City in 2020. While the COVID-19 pandemic (pandemic) closures in 2020 may have impacted Court fee collections, the City could still face a significant shortfall in Court fees revenue in 2021.

## Appropriations

Overtime – The City’s adopted budget includes \$1.2 million in appropriations for overtime expenses within the Department of Public Works (DPW), Police Department and Fire Department in 2021. The City spent approximately \$5.7 million and \$6.2 million in overtime in 2019 and 2020, respectively. Some of the overtime expenditures for these departments in 2020 may have increased due to pandemic-related absences.

Although budgeted appropriations for overtime increased \$200,000 from 2020, approximately 63 percent of the total budgeted overtime has already been expended as of March 24, 2021. If actual expenditures for 2021 are similar to 2020, overtime expenditures will exceed budgeted appropriations by nearly \$5 million (Figure 3). Because the City has not implemented significant changes in procedures to reduce overtime, it is likely the historical trends will continue.



Health Insurance – The City’s adopted budget includes a \$22 million appropriation for health insurance. While this is an increase of \$3.7 million from the prior year, we

could not determine whether the estimate was reasonable due to the lack of provided information. The health insurance estimate was prepared by the Comptroller’s Office and submitted to the Mayor’s Office during the budget development process. Although the Comptroller provided us with 2020 health insurance bills, they did not include half of the billing breakdown for the period May through September 2020. Further, we were not provided with support for the health insurance estimate calculated by the Comptroller’s Office.

Retirement – The City’s adopted budget includes approximately \$12.6 million in budgeted appropriations for employee retirement benefits. Although the City’s estimated appropriations accurately reflect the amount due for 2021 retirement billings, the City’s estimate does not take into account the accrual of interest due to late payment of the retirement billings. The City’s retirement billings, payable by February 1, 2021, have not been paid as of April 14, 2021, resulting in interest accrued totaling at least \$126,000. Failing to account for this interest in budgeted appropriations for retirement billings may result in a budget shortfall.

Contingency Appropriation – The City’s adopted budget includes a \$750,000 contingency appropriation, which is a decrease of \$250,000 (25 percent) from 2020. The contingency

appropriation provides City officials with flexibility in the event of unanticipated expenditures or revenue shortfalls. However, it may not be sufficient due to the significant budgetary concerns described in this letter, including the following potential expenditures.

Separation Payments – Although the City’s collective bargaining agreements (CBAs) provide for the payout of unused sick leave at the time of an employee’s separation, the City’s adopted budget does not include appropriations for employee separation payments. Therefore, City officials will need to identify other sources of funding to cover any separation payments incurred in 2021. Because City officials did not use prior years’ actual expenditures or a projection of employees expected to be paid separation payments, there was no support for expected separation payments for the current year. As a result of making no provision for separation payments, current budget provisions may be materially underestimated.

Contractual Settlements – The City’s CBAs and/or stipulations with each of its bargaining units (CSEA, Local 456, Police Benevolent Association and Uniformed Firefighters Association) have been expired since December 31, 2017. The settlement of replacement agreements could result in significant retroactive pay due to City employees. Although the adopted budget includes \$547,000 in appropriations for mandatory increases, there are no appropriations established for potential retroactive pay that may arise from contractual settlements. The adopted budget includes contingency appropriations of \$750,000; however, it may not be sufficient to cover potential contract settlements and other unbudgeted expenditures. As a result, current budget provisions may be underestimated.

Unpaid and Unknown Liabilities – The City continues to be subject to unpaid liabilities from prior fiscal years. Because these unpaid liabilities may not always have been accounted for in prior year actual expenditures, some unpaid bills may have to be paid using current appropriations. As a result, current budget provisions may be underestimated. Further, there may be additional liabilities that City officials are not aware of. If funding is not available to cover these unpaid or unknown liabilities, City operations could be significantly impacted.

## **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 property tax revenue needed to fund operations is collected. These adjustments are known as a tax overlay, which is the amount of taxes estimated to be uncollected and unavailable to finance budgetary appropriations.

The City’s 2021 adopted budget includes a tax overlay of \$500,000, which is less than the prior year’s overlay by \$500,000 (50 percent). The City must collect taxes at an approximate 99 percent collection rate to realize the \$62.1 million in property tax revenue included in the 2021 adopted budget. City officials could not provide prior years’ collection rates to support an expected collection rate of 99 percent.

Moreover, our Office has received numerous complaints from taxpayers and City officials regarding taxpayers’ inability to make property tax payments to the Comptroller’s office due to office closures, payments not being accepted, and payments not being deposited after remittance.

If these tax collection problems persist, the City's established tax overlay may not be sufficient to cover the amount of uncollected taxes and could create a shortfall in 2021.

Reserve for Delinquent Taxes – Section 85-a of the City Charter establishes a reserve for delinquent taxes consisting of uncollected outstanding delinquent taxes, properties owned by the City acquired by foreclosure proceedings and mortgages receivable. The Comptroller is required to prepare and submit in writing to the Board of Estimate and Contract (Board), by October 15 of each year, a valuation of the City's reserve for delinquent taxes as of September 30 of the same year. Whenever, at such date, the Comptroller has reported the amount of cash available in the reserve to be in excess of 4 percent of the total real estate taxes levied in the City and the total amount of any loans or notes outstanding issued in anticipation of the collection of taxes, the Board must declare the excess amount to be available for the reduction of the budget being prepared for the next fiscal year.

The Comptroller did not prepare a valuation of the reserve as of September 30, 2020. Therefore, City officials could not determine whether excess cash was available to reduce the 2021 tax levy. Although the City has not had an independent audit completed since 2015, it is the Comptroller's responsibility to provide a valuation of the reserve for delinquent taxes by October 15 of each year. Without a valuation of the reserve, City officials cannot reduce the tax levy even if an excess existed.

Constitutional Tax Limit – The Constitutional Tax Limit is the maximum amount of real property tax that may be levied in any fiscal year. The State Constitution generally limits the taxing power of cities to 2 percent of the five-year average full valuation of the City's taxable real property. Cities are required to annually file a Constitutional Tax Limit form with the State Comptroller 10 or more days before final budget adoption, and to file a copy of the adopted budget within 30 days of its adoption.

The Comptroller has not filed the City's 2020 or 2021 Constitutional Tax Limit form. Local governments must be vigilant in managing their tax margin. Therefore, it is essential that the Constitutional Tax Limit form be filed prior to budget adoption.

### **American Rescue Plan Act**

The Federal American Rescue Plan Act (Act) of 2021 will provide substantial aid to cities in the upcoming fiscal year. At this time, the distribution schedule for funds from the Act has not been finalized. Once received, the funds will come with restrictions on what they can be used for. City officials should be mindful of these restrictions as they budget and plan for the use of the funds.

### **Tax Cap Compliance**

General Municipal Law section 3-c (Law) established a tax levy limit for local governments, which was effective beginning in the 2012 fiscal year. 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 adopted 2021 budget includes a tax levy of \$62,537,580.<sup>1</sup> Because the City has not filed its 2020 or 2021 tax cap forms, the City cannot be certain that the tax levy required by the adopted budget is within the tax levy limit.

### **Overall Conclusion**

The City has adopted a budget for 2021 that results in substantial risks of negatively impacting the City's financial condition. The budget includes unsupported or uncertain one-shot sources of funds in the appropriation of fund balance and sale of property, likely overestimations of revenues, as well as under-budgeted appropriations. The combination of these factors puts the City at risk of declining financial condition and cash flow shortages throughout the year. It is imperative that City officials monitor the results of operations against budgetary provisions and be prepared to take decisive action if necessary.

### **Recommendations**

The City Council and officials should:

1. Work with the Comptroller to determine current fund balance levels and 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.
2. Monitor real estate transfer tax, mortgage tax, and Court fees revenues closely throughout the fiscal year and make any needed budget amendments if revenues fall short of estimates.
3. Monitor overtime expenditures closely throughout the fiscal year and make any needed budget amendments.
4. Monitor health insurance expenditures closely throughout the year to ensure the budgeted appropriation is sufficient.
5. Determine how the excess retirement liability should be covered and make any needed budget amendments.
6. Monitor employee separations throughout the year to ensure appropriations are available to cover payments for unused leave allowable by the CBAs.
7. Consider the potential financial impact of the settlement of the expired CBAs and be prepared to provide the necessary funding in the event that any are settled in 2021.
8. Work with the Comptroller to identify all outstanding liabilities and develop a plan to ensure City operations and services are not significantly impacted.

---

<sup>1</sup> The tax levy includes a \$500,000 overlay less \$50,000 for prior year taxes.

9. Monitor tax collections closely throughout the fiscal year and make any needed budget amendments if revenues fall short of estimates.
10. Develop a plan to use the aid provided by the Act and be mindful of its restrictions.

The City Comptroller should:

11. Provide the Council with fund balance projections to help determine whether the amount included in the adopted budget is available.
12. File the City's outstanding Constitutional Tax Limit and Real Property Tax Cap forms.
13. Prepare a valuation of the reserve for delinquent taxes and submit the same in writing to the Board as required by the City Charter.
14. Work with City officials to identify all outstanding liabilities and develop a plan to ensure City operations and services are not significantly impacted.

We hope that this information is useful as you monitor the City's budget throughout the 2021 fiscal year. If you have any questions on the scope of our work, please feel free to contact Lisa Reynolds, Chief Examiner of the Newburgh Regional Office, at (845) 567-0858.

Sincerely,

Elliott Auerbach  
Deputy Comptroller

cc: William Holmes, City Clerk  
Andrea Miller, Executive Deputy Comptroller  
Lisa Reynolds, LGSA Newburgh Regional Chief Examiner