

# Pompey Hill Fire District

## Financial Management

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NOVEMBER 2021

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OFFICE OF THE NEW YORK STATE COMPTROLLER  
Thomas P. DiNapoli, State Comptroller

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# Report Highlights

## Pompey Hill Fire District

### Audit Objective

Determine whether the Pompey Hill Fire District (District) Board of Fire Commissioners (Board) properly established and managed capital reserve funds, ensured records were audited and annual reports were filed timely.

### Key Findings

The Board did not properly establish and manage the capital reserve fund, establish a written reserve fund policy or adopt a written multiyear capital plan. In addition, annual update documents (AUDs) were not filed timely and the required independent audit of the financial statements was not conducted. We also found:

- Expenditures totaling \$427,305 from the capital reserve were not authorized by proper Board resolutions and legal notices were not published for certain purchases subject to permissive referendum.
- The District used \$97,000 of capital reserve funds for operating costs which was not an authorized use of the reserve funds.

### Key Recommendations

- Officially establish the capital reserve and written reserve fund policy.
- Ensure reserve expenditures comply with legal requirements.
- Ensure the AUD is filed with our office within 60 days after the close of the fiscal year and annual independent audits are performed.

District officials generally agreed with our recommendations and have initiated or indicated they planned to initiate corrective action. Appendix B includes our comments on issues raised in the District's response letter.

### Background

The Pompey Hill Fire District is a district corporation of the State, distinct and separate from the Town of Pompey (Town) in Onondaga County, in which it is located.

An elected five-member Board governs the District and is responsible for the overall financial management.

The Board appoints a Treasurer who acts as the chief fiscal officer and is responsible for receiving, having custody of, disbursing and accounting for District funds and preparing periodic financial reports.

#### Quick Facts

Capital Reserve Cash Balance as of December 31, 2020	\$201,241
2021 Tax Levy	\$532,522
2020 Budgeted Appropriations	\$552,472

#### Annual Financial Report Filings

Year	Filed Yes/No	Days Late as of August 31, 2021
2018	Yes	860
2019	No	548
2020	No	183

### Audit Period

January 1, 2018 – February 28, 2021. We extended our audit period to August 31, 2021 to determine whether delinquent annual financial reports were filed.

# Financial Management

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The board is responsible for managing the district's fiscal activities and safeguarding its resources. It is essential that the board establishes controls, including policies and procedures, to ensure financial reports are filed in a timely manner, and that the district complies with applicable laws, rules and regulations.

## **How Should a Board Establish and Properly Manage Capital Reserves?**

Reserve funds are established to provide resources for an intended future use with a clear purpose or intent that aligns with the statute authorizing the fund.

If a board chooses to accumulate money for future capital improvements and equipment, it must pass a resolution to formally establish a capital reserve fund and it must follow New York State (NYS) General Municipal Law (GML) requirements for establishing, funding, expending and transferring money from reserve funds.<sup>1</sup> Effective January 1, 2007, GML requires a board of commissioners to adopt a resolution subject to mandatory referendum to establish a capital reserve fund.

A capital reserve fund can be established for a specific item of equipment (e.g., ladder truck) or specific improvement (e.g., new firehouse) or for a type of equipment (e.g., fire apparatus) or improvement (e.g., land).

A capital reserve created for a "specific" item of equipment or a "specific" capital improvement must include the estimated maximum cost, and expenditures for this reserve must be approved by board resolutions. An expenditure from a capital reserve fund established for a "type" of equipment or improvement can only be made following the adoption of a resolution, subject to permissive referendum requirements. Expenditures subject to permissive referendum require a district to publish a legal notice informing residents of the board's planned action to expend money from the "type" reserve. The legal notice also informs eligible voters of their right to file a petition to require the matter to be subjected to voter approval.

A reserve fund policy, which provides guidance on the accumulation and use of reserves, is an important component of any multiyear financial plan. To ensure that reserve funds are being properly established and expended, a board should develop a written reserve policy that complements a multiyear capital plan.

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<sup>1</sup> For guidance on reserve funds, District officials should refer to our Local Government Management Guide entitled *Reserve Funds* at <https://www.osc.state.ny.us/files/local-government/publications/pdf/reservefunds.pdf>

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## The Board Did Not Properly Establish and Manage its Capital Reserve Fund and Adopt a Written Reserve Fund Policy

District officials began reporting a capital reserve fund in the District's 2010 annual update document (AUD), but they were unable to provide us with any documentation or resolution showing that the Board formally established a capital reserve fund to identify the purpose and intended future use of the reserve.

Based on our review of the 2018, 2019 and 2020 annual budgets, the Board included a \$100,000 appropriation each year to fund a capital reserve. As of December 31, 2020, the District's capital reserve bank account had a balance of \$201,241.

Because of the District's course of conduct in treating this as a reserve fund, we believe the funds have a status of "de facto" capital reserve funds. In such instances, the District should take remedial actions to ratify the reserve fund. In general, these actions would include following the procedures which were required at the time the funds were reserved. Taking these actions also will help clearly convey the Board's intent regarding the future purpose and use of the funds and reduce the risk that subsequent boards could use these funds for purposes other than what this and previous boards intended.

Further, reserve transactions were not authorized by the Board or transparent to the public. We reviewed the District's accounting records and bank statement activity for January 1, 2018 through February 28, 2021 and found 11 transfers from the capital reserve fund bank account to the District's checking account totaling \$427,305. Five transfers totaling \$330,305 were expended for capital purposes, including a vehicle purchase, a fire engine refurbishment and a roof replacement.

However, the six remaining transfers totaling \$97,000 were to pay operating expenditures, such as payroll, taxes, insurance and retirement costs. Capital reserve funds should not have been used to pay the District's operating costs.<sup>2</sup> The Treasurer told us that he would borrow money as needed from the capital reserve fund to pay for operating expenditures until the District received its real property tax revenue. For example, the District disbursed \$8,193 on January 29, 2020 which caused the District's recorded cash balance for its checking account to decline to (\$4,001). Because there were not sufficient funds to cover the payment, the Treasurer transferred \$8,200 from the capital reserve fund bank account. Upon our review of the District's bank transactions, the capital reserve

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... reserve transactions were not authorized by the Board or transparent to the public.

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Capital reserve funds should not have been used to pay the District's operating costs.

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<sup>2</sup> In 2020, State legislation was passed to allow fire districts to spend money from their capital reserve funds for capital costs attributable to the COVID-19 pandemic without the need to comply with referendum requirements. The legislation also authorized fire districts to temporarily transfer reserve fund money to cover operating costs or other costs attributable to the pandemic. The District's expenditures from the capital reserve were not related to the pandemic and therefore were not covered by this legislation.

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was never replenished for the \$97,000 even after the District received its real property tax revenue in February. The Board Chairman (Chairman) told us he was aware that capital reserve fund cash was used to pay operating costs, but he did not realize the reserve was not replenished when other funds became available.

In addition, none of the disbursements from the capital reserve totaling \$427,305 were authorized by a proper Board resolution. Also, given District officials treatment of the capital reserve as a “type” reserve, the District did not publish legal notices for capital expenditures, which are subject to permissive referendum requirements.

Both the Treasurer and Chairman told us they did not realize they should not borrow from the capital reserve fund and that capital reserve expenditures were subject to permissive referendum requirements.

Further, the Board did not adopt a written multiyear capital plan or written reserve fund policy. A reserve fund policy would be a vital tool to establish reasonable and substantiated goals for reserved fund balances and establish guidelines for developing realistic budget estimates to maintain reserved fund balances at designated levels. As a result, the Board is not properly planning for capital expenditures, and has not provided the public with a clear picture as to how tax dollars are being spent.

## **What are the Annual Financial Reporting and Audit Requirements for Fire Districts?**

An annual financial report, or AUD, is a report of a district’s financial position and results of operations. The AUD is an important fiscal tool that provides the board with necessary information to monitor district operations and provides other interested parties with a summary of the district’s financial activities. GML requires the treasurer to complete and submit an AUD to the Office of the State Comptroller (OSC) within 60 days after the close of the fiscal year.

New York State Town Law requires the board to obtain an independent audit of the district’s financial statements when the district’s annual revenue is \$400,000 or more. Prior to 2020, an annual audit was required when district revenues were \$300,000 or more. A copy of the audit report must be given to the board of fire commissioners, the town board(s) served by the district and OSC within 180 days of the end of the fiscal year audited.

## **AUDs and Independent Audits Were Not Completed Timely**

The Board and Treasurer did not ensure the 2018 through 2020 AUDs were completed and submitted to OSC in a timely manner. Based on our discussions with officials and review of Board minutes, the District contracted with a certified

public accounting (CPA) firm to prepare the AUDs in or around January 2020 after learning the former CPA firm hired by the District was no longer performing these services. The District filed the 2018 AUD on July 8, 2021 (860 days late) and the firm plans to complete the 2019 and 2020 AUDs.

District officials' not filing timely AUDs with OSC denies the public a primary fiscal tool to monitor the District's financial affairs. It could also compromise the District's ability to secure financing, if necessary, for upcoming financial needs.

**Figure 1: Annual Financial Report Filings**

Year	Filed Yes/No	Days Late as of August 31, 2021
2018	Yes	860
2019	No	548
2020	No	183

Additionally, because the District received revenues of over \$500,000 each year in 2018, 2019 and 2020, the Board was required to obtain an annual independent audit of the District's financial statements. The District contracted with the CPA firm that is preparing the District's AUDs to conduct the financial statement audits for 2018 through 2020. As of July 14, 2021, the District had not yet received any audit reports for this period.

Independent audits express an opinion on the fairness of the presentation of the District's financial statements, can help identify conditions in need of improvement and can be a useful tool in providing oversight and review of financial operations. As such, it is important that the Board obtain a timely independent audit each year.

### What Do We Recommend?

The Board should:

1. In consultation with the attorney for the District, take action to ratify the "de facto" capital reserve fund by adopting an appropriate resolution, subject to referendum requirements, if necessary.
2. Ensure that all reserve fund activities are authorized by the Board and that legal notices are properly published for reserve expenditures that are subject to permissive referendum.
3. Discontinue the practice of using the capital reserve fund to pay for operating expenditures and replenish the capital reserve fund for any money used for operating expenditures.

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4. Adopt a written multiyear capital plan to properly plan for capital expenditures and a written reserve fund policy to govern the levels of reserve fund balances to maintain.
  5. Ensure that the AUD is filed with OSC within 60 days after the close of the fiscal year, as required by law, and that delinquent AUDs are also filed.
  6. Ensure the District obtains a timely independent audit of the District's financial statements each year, as required by law.

# Appendix A: Response From District Officials

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**POMPEY HILL FIRE DISTRICT**  
**PO BOX 112**  
**POMPEY, NY 13138**  
**PH 677-3212 FAX 677-3398**

October 16, 2021

The Pompey Hill Fire District Board of Fire Commissioners has received and reviewed the draft of Audit Report 2021M-136. This is our combined written response to the findings along with our Corrective Action Plan.

Recommendations:

1. In consultation with the attorney for the District, take action to ratify the “de facto” capital reserve fund by adopting an appropriate resolution, subject to referendum requirements, if necessary.

**Corrective Action:** The Board will take the steps to “re-establish” the capital reserve fund, renewing the current fund that has been in place since before the 2000 fiscal year and before any current board members were in office.

2. Ensure that all reserve fund activities are authorized by the Board and that legal notices are properly published for reserve expenditures that are subject to permissive referendum.

**Corrective Action:** The Board will continue to properly authorize any expenditures from the Capital Reserve account by resolution, and such action will be properly recorded in the meeting minutes by the District Secretary. Additionally, the District Secretary will publish any public notices of a permissive referendum, as required by law.

See Note 1 Page 9
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3. Discontinue the practice of using the capital reserve fund to pay for operating expenditures and replenish the capital reserve fund for any money used for operating expenditures.
4. Adopt a written multiyear capital plan to properly plan for capital expenditures and a written reserve fund policy to govern the levels of reserve fund balances to maintain (them).

**Corrective Action:** The Board will plan for end-of-year emergency and operating expenses by assuring that there are adequate funds in the General fund to carry over into the next calendar year until Town tax moneys are received and will replenish any capital reserve fund money that was used for emergency expenditures. The Board will also adopt a written multiyear capital plan to properly plan for capital expenditures and a written reserve fund policy to govern the levels of reserve fund balances to maintain them.

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**POMPEY HILL FIRE DISTRICT**  
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Recommendations (cont'd):

5. Ensure that the AUD is filed with OSC within 60 days after the close of the fiscal year, as required by law, and that delinquent AUDs are also filed.

**Corrective Action:** The Board and Treasurer will file the AUD with OSC within 60 days after the close of the fiscal year as required by law. The Board and Treasurer are also currently working with an auditing firm to file the AUDs that were delinquent due to the prior accounting firm discontinuing their auditing services for Fire Districts, and the difficulty in finding a new provider due to the Covid pandemic.

6. Ensure the District obtains a timely independent audit of the District's financial statements each year, as required by law.

**Corrective Action:** The Board and Treasurer will continue to work with the current auditing firm to obtain a timely independent audit of the District's financial statements as required by law.

Respectfully Submitted,

Gordon Sullivan  
Chairman, Board of Fire Commissioners  
Pompey Hill Fire District

## Appendix B: OSC Comments on the District Response

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### Note 1

During our audit period, there was no evidence in the minutes showing that the Board passed resolutions to authorize the expenditures from the capital reserve.

### Note 2

Capital reserve funds not replenished, totaling \$97,000, were used to pay regular operating expenditures, such as payroll, taxes, insurance and retirement costs during the audit period. These funds were not used to pay for emergency expenditures.

## Appendix C: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We reviewed the District's policies and procedures and interviewed District officials to gain an understanding of the Board's management and oversight of financial operations and the existing processes and plans for the District's capital reserve fund.
- We interviewed officials and reviewed Board minutes for Board approvals and resolutions to assess whether the capital reserve was properly established.
- We analyzed capital reserve bank and record activity from January 1, 2018 through February 28, 2021 to assess whether the reserve was funded as budgeted and whether expenditures were Board approved, proper and in accordance with statute.
- We reviewed AUD filings to determine whether AUDs were filed with our office within 60 days after the close of the fiscal year.
- We interviewed officials and reviewed Board minutes to determine whether the Board obtained an independent audit of the District's finances.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of New York State Town Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review.

## Appendix D: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf](http://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf)

### **Cost-Saving Ideas** – Resources, advice and assistance on cost-saving ideas

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