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November 20, 2018

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

Report Number: B18-6-12

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 budget must be submitted no later than 30 days before the date scheduled for the governing board's vote on its adoption 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 on the proposed budget 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 budget for the 2019 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 if 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 2019 fiscal year consisted of the following:

- Cover Letter
- 2019 Proposed Budget
- Supplementary Information

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

Fund	Appropriation and Provisions for Other Uses	Estimated Revenues and Transfer In¹	Appropriated Fund Balance and Reserve²	Real Property Taxes
General	\$45,768,505	\$24,195,215	\$1,070,824	\$20,502,466
Water	\$6,463,309	\$6,056,680	\$406,629	\$0
Sewer	\$6,668,334	\$6,192,813	\$475,521	\$0
Sanitation	\$3,689,360	\$3,505,468	\$183,892	\$0

Based on the results of our review, we found that the significant revenue projections in the proposed budget are reasonable. However, our review disclosed errors in the projections for expenditures that should be addressed prior to adoption of the budget.

Retirement Appropriation

The City’s 2019 proposed budget contains \$3,330,609 for payments due to the New York State Police and Fire Retirement System (PFRS) and the Employee Retirement System (ERS). However, the City received the 2019 annual invoice for PFRS and ERS payments on November 7, 2018 and the amounts due are \$3,906,802. Therefore, the City has underestimated pension costs by \$576,193. Because City officials know the amount due they should adjust the retirement appropriation to reflect actual pension costs.

¹ Transfer In: \$67,734

² Appropriated Reserve: \$247,000

Debt Service

The proposed budget did not include \$841,622 in general fund debt service that was on the City's debt schedule. City officials said they intended to pay down debt of this amount using resources remaining in related capital project funds where work has been substantially completed. However, the City will still need an appropriation in the budget to pay the debt service expenditures. Furthermore, City officials have not identified the source of the funds available in capital projects to verify the funds are available for debt service or included a transfer of the funds for use to pay debt service. We recommend City officials add \$841,622 to the proposed general fund budget for this payment. If City officials determine that funds in the capital project fund are available for debt service payments, any amounts to be used for debt service should be included as interfund transfers in the budget.

Overtime for Police and Firefighting

The City routinely exceeds budgeted amounts for police and firefighting overtime costs each year. The proposed general fund budget includes overtime funding of \$1.37 million for the police and fire departments. The City spent \$ 2,190,366 in 2016, \$2,297,643 in 2017, and \$1,837,423 as of November 11, 2018. Based on our projection, the City will spend approximately \$2.2 million in 2018. The City does not have a plan that would reduce overtime in the coming year, therefore it is likely the historical trends will continue, which means the appropriation for overtime for these two departments is likely underestimated by about \$830,000. City officials should modify the budget by increasing this appropriation to \$2.2 million to provide appropriations more consistent with past overtime costs.

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 levy is collected, especially when they are responsible to enforce unpaid amounts. 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 create a shortfall in 2019.

The average annual uncollected taxes totaled approximately \$2.9 million, or 15 percent of the total average tax levy from 2016 through 2018. Annually, the City has collected an average of approximately \$1.0 million from the previous year's delinquent taxes. However, this leaves the City with an average of \$1.9 million uncollected taxes or 10 percent of the tax levy. Therefore, City officials should include a tax overlay of approximately \$2,275,000 in order to collect the \$20,502,466 needed to fund operations.

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 generally set the maximum dollar amount for such accounts at 10 percent of a fund's budget (excluding appropriations for debt service), which can serve as a general guideline for the City. The City's proposed budget includes a \$250,000 contingency appropriation, or 0.6 percent of total anticipated general fund expenditures. In reviewing the adequacy of contingency appropriations, the City Council should consider current economic conditions and uncertainties and the need to provide adequate funding for any significant unforeseen costs. For example, the amount of unappropriated fund balance available to fund unexpected events and uncertainties such as pending collective bargaining contracts should be considered in determining the amount needed for contingency appropriations.

Over the past several years, City officials have consistently budgeted minimal amounts for contingencies. This provides the City with limited flexibility to address revenue shortfalls or unforeseen expenditures. We recommend that the budget include at least 2 percent for contingencies or a minimum of \$900,000.

Collective Bargaining Agreement

The City's collective bargaining agreement (CBA) with the International Association of Fire Fighters expired on December 17, 2017. The City faces potential increased salary costs when this agreement is settled as well as potential retroactive increases for 2018. City officials should consider the potential financial impact of the settlement of this CBA when finalizing the 2019 budget.

Tax Cap Compliance

The State Legislature and the Governor enacted Chapter 97 of the Laws of 2011 that established a tax levy limit on local governments, which was effective beginning in the 2012 fiscal year. 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.

The City's proposed budget does not comply with the tax levy limit because it includes a tax levy of \$20,502,466, which increases the 2019 tax levy by 3 percent over the 2018 tax levy of \$19,904,325. In adopting the 2019 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 tax levy limit prior to adopting 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 Ms. Tenneh Blamah, Chief Examiner of the Newburgh office, at (845) 567-0858.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

cc: Michael G. Ciaravino, Acting City Manager
Charles Duffy, Consultant, Acting City Comptroller
Lorene Vitek, City Clerk
Hon. Catharine Young, Chair, NYS Senate Finance Committee
Hon. Helene E. Weinstein, Chair, NYS Assembly Ways and Means Committee
Hon. William J. Larkin, Jr., NYS Senate
Robert F. Mujica Jr., Director, NYS Division of the Budget
Andrew A. SanFilippo, Executive Deputy Comptroller
Tenneh Blamah, Chief Examiner