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November 15, 2019

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

Report Number: B19-6-11

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 2020 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 2020 fiscal year consisted of the following:

- Cover Letter
- 2020 Proposed Budget
- Supplementary Information

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

Fund	Appropriation and Provisions for Other Uses	Estimated Revenues	Appropriated Fund Balance	Real Property Taxes
General	\$47,930,277	\$23,245,718 ¹	\$0	\$24,684,559
Water	\$7,072,546	\$6,402,753	\$669,793	\$0
Sewer	\$6,041,704	\$6,041,704	\$0	\$0
Sanitation	\$3,994,544	\$3,994,544	\$0	\$0
Self-Insurance	\$3,259,000	\$3,259,000	\$0	\$0
Total	\$68,298,071	\$42,943,719	\$669,793	\$24,684,559

Our review disclosed the following issues 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 any such adjustments will help improve the City’s financial condition.

Revenues

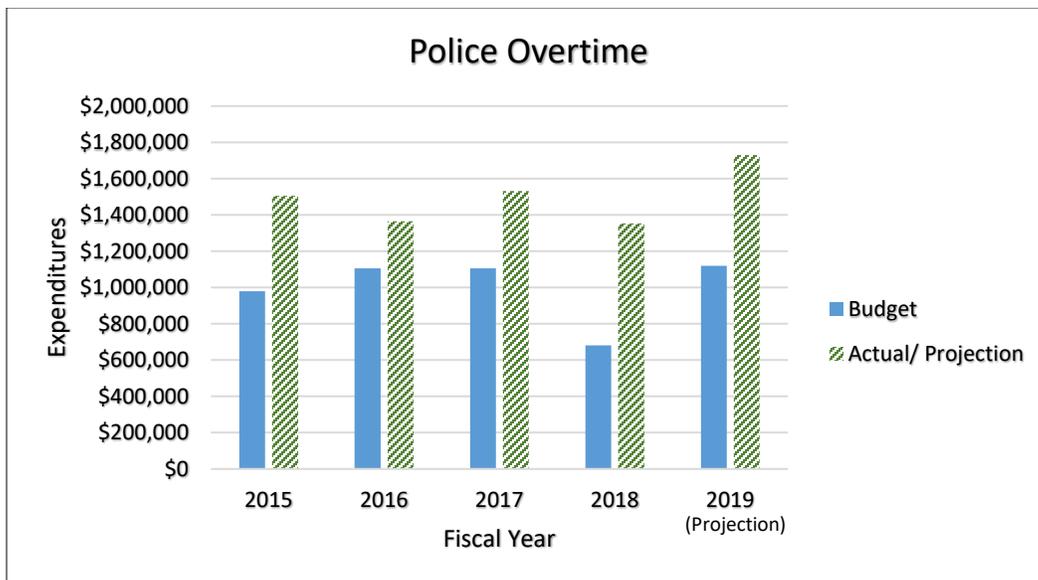
Sale of Metered Water – The 2020 proposed water fund budget includes \$5.1 million in revenue from sale of metered water, which is an increase of approximately \$202,000 from the amount collected in the 2018 fiscal year. The City plans to increase rates for sale of metered water by 10 percent. The amount appears reasonable, but requires the City Council to pass a resolution to raise

¹ Includes \$1,315,687 reduction for tax overlay.

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.

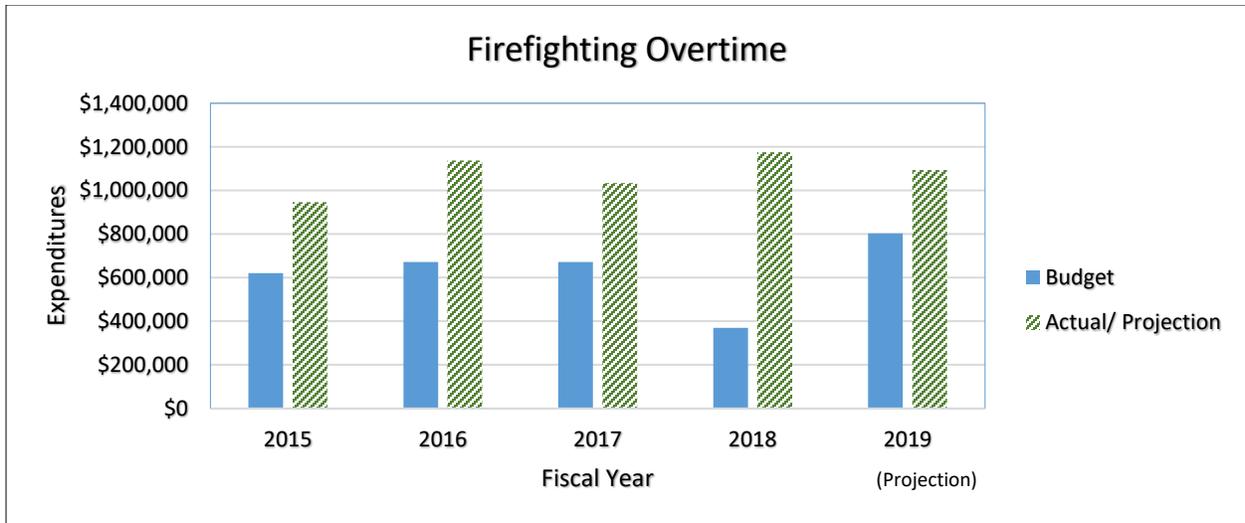
Expenditures

Police Overtime² – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for police overtime costs. The City’s 2020 proposed budget includes overtime funding of \$1.1 million for the police department. The City spent \$1.4 million on police overtime in 2018 and approximately \$1.1 million in 2019 (as of September 30, 2019). Based on our projections, the City will spend approximately \$1.7 million on police overtime in the 2019 fiscal year. The City has not implemented changes in procedures to reduce overtime or provided calculations regarding overtime to cover shifts from budgeted layoffs. Therefore, it is likely the historical trends will continue or be greater, which means the appropriation for overtime is likely underestimated by at least \$615,000.



Firefighting Overtime² – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for firefighting overtime costs. The City’s 2020 proposed budget includes overtime funding of \$800,000 for the Fire Department. The City spent \$1.2 million on firefighting overtime in 2018 and approximately \$725,000 in 2019 (as of September 30, 2019). Based on our projections, the City will spend approximately \$1.1 million on firefighting overtime in the 2019 fiscal year. The City has not implemented changes in procedures to reduce overtime or included calculations regarding overtime to cover shifts from budgeted layoffs. Therefore, it is likely the historical trends will continue or be greater, which means the appropriation for overtime is likely underestimated by at least \$295,000.

² Police and fire overtime numbers are comprised of all overtime within the Departments.



Severance Payments – The City’s 2020 proposed budget includes \$565,000 for typical severance payments for several departments. However, the City’s appropriation does not include the additional severance payments for the budgeted layoffs within the proposed budget. City Officials told us this was because they plan to implement layoffs and pay severance costs before 2019 year end and pay these costs from the current budget. If layoffs cannot be completed until the start of 2020, City Officials should consider increasing the 2020 appropriation.

Unemployment Insurance – The City’s 2020 proposed budget includes \$50,000 for unemployment insurance payments. However, based on the proposed layoff of 26 employees, the City appears to have underestimated unemployment insurance by as much as \$291,000. City Officials should consider increasing this appropriation.

Contingency – Contingency accounts are used by local governments as a means of providing funding for unexpected events. The City’s proposed budget includes a \$581,000 contingency appropriation, or 1.2 percent of the general fund anticipated expenditures. Officials have indicated that the contingency may be used to fund police and fire overtime if needed. Since we believe police and fire overtime is currently underestimated by approximately \$910,000, this would exhaust more than the current amount budgeted, leaving no appropriation for other unforeseen or unexpected costs. The City Council should consider 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 2020 proposed budget, the City will have exhausted at least 113.4 percent of its CTL.

The City has indicated that the tax levy amount will be decreased from the proposed \$24.7 million to \$22.2 million. Therefore, with the new tax levy amount of \$22.2 million, the City will have

exhausted at least 99.8 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, the City will exceed its CTL and could lose some of its State funding.

Staffing Reduction – The City’s 2020 proposed budget includes a staffing reduction of 32 positions, comprised of a layoff of 26 employees and not filling six vacant positions. The staffing reductions are intended to save the City appropriations of salaries and employee benefits. However, should the City elect to not reduce staffing, the budget should be adjusted to reflect the increased expenditures.

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 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 includes an estimate of \$1,315,687; however, the overlay has been removed to reduce the tax levy. City officials informed us that they removed the tax overlay because the City has been collecting 95 percent of the current taxes and another 10 percent from delinquent tax collections in prior years. While we agree that the City collected about 10 percent from delinquent taxes last year, any change in enforcement policies could impact these collections for 2020.

Collective Bargaining Agreement (CBA) – 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, 2019 and 2020. City officials should consider the potential financial impact of the settlement of this CBA when finalizing the 2020 budget.

Tax Cap Compliance

The State Legislature and the Governor enacted Chapter 97 of the Laws of 2011 (Law), as amended, that established a tax levy limit for local governments 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. In adopting the 2020 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 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. Review the estimate for police overtime and increase it to an appropriate level or implement changes in procedures to manage costs within budgeted amounts.
5. Review the estimate for firefighting overtime and increase it to an appropriate level or implement changes in procedures to manage costs within budgeted amounts.
6. Review the estimate for severance payments and adjust it to an appropriate level.
7. Review the estimate for unemployment insurance and increase it to an appropriate level.
8. Review the estimate for contingency and adjust it to an appropriate level if needed.
9. Review staffing reductions and if reductions are not made, ensure the salary and employee benefit appropriations are adjusted to an appropriate level.
10. Review the estimate for potential CBA settlements and consider establishing and funding a specific contingency fund.

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
Robert F. Mujica Jr., Director, NYS Division of the Budget
Lisa Reynolds, Chief Examiner