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November 17, 2023

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

Report Number: B23-6-9

Dear Mayor Harvey and Members of the City Council:

Chapter 223 of the Laws of 2010 (Chapter 223) authorizes the City of Newburgh (City) 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 of 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 completed an independent evaluation (review) of the City's budget for the 2024 fiscal year. The review addressed the following question:

- 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 the review’s objective, 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 2024 fiscal year consisted of the following:

- Cover Letter
- 2024 Proposed Budget
- Supplementary Information

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

<b>Figure 1: 2024 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	\$64,261,442	\$39,444,272	\$3,399,807	(\$2,157,282)	\$23,574,645
Sewer	11,655,172	11,195,938	2,545,107	(2,085,873)	0
Water	6,307,079	7,892,188	24,770	(1,609,879)	0
Sanitation	4,233,421	5,544,209	0	(1,310,788)	0
Self-Insurance	3,548,246	0	0	3,548,246	0
<b>Total</b>	<b>\$90,005,360</b>	<b>\$64,076,607</b>	<b>\$5,969,684</b>	<b>(\$3,615,576)</b>	<b>\$23,574,645</b>

## Nonrecurring Funding Sources

**Fund Balance** – The City is appropriating \$3.4 million of its projected unassigned general fund balance of \$23.8 million at the end of the 2023 fiscal year. In addition to appropriating fund balance in the general fund, the City has appropriated approximately \$2.5 million of sewer fund balance and appropriated \$24,770 of fund balance for the water fund. However, the water fund already has a deficit fund balance of \$58,722 and therefore no fund balance is available to appropriate (Figure 2).

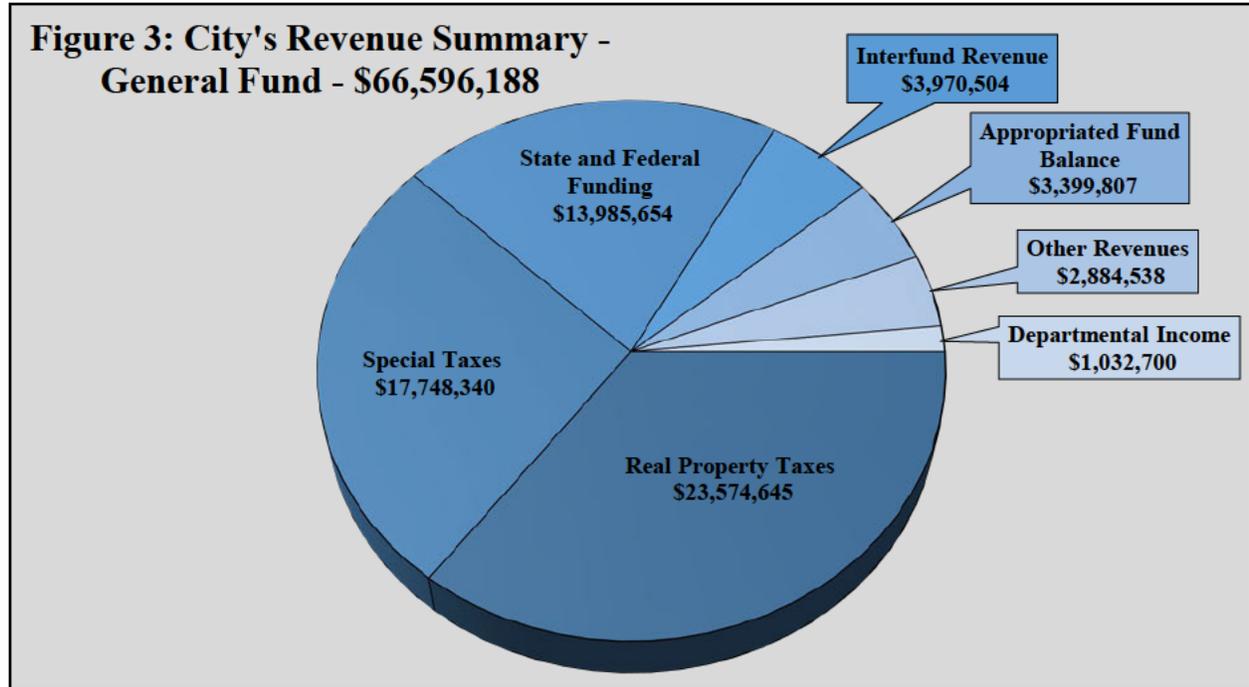
<b>Figure 2: Fund Balance</b>			
<b>Fund</b>	<b>Fund Balance Appropriated</b>	<b>Projected Fund Balance Available</b>	<b>Percent Appropriated</b>
General	\$3,399,807	\$23,756,503	14%
Sewer	\$2,545,107	\$4,561,189	56%
Water	\$24,770	(\$58,722)	N/A
Self-Insurance	\$0	\$1,084,729	0%
Sanitation	\$0	(\$939,438)	0%

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 and may lead to the City appropriating more fund balance than available, as may be the case with the water fund, which will impact operations. Continuous use of fund balance also leaves the City without a cushion against unexpected costs or contingencies that may occur.

**New York State Touring Route Program** – The City is estimating \$5.3 million in revenue in the 2024 proposed budget in the form of reimbursements from the State. These reimbursements are for eligible expenditures incurred for repairing highways, bridges, highway-railroad crossings, and other transportation facilities. Amounts unused by the City, subject to reappropriation by the State, can be carried over from one State Fiscal Year (SFY) to the next but are encouraged by the State to be utilized in the year appropriated. The State allocated \$1.1 million to the City in the 2021-22 and 2022-23 SFY budgets and \$1.5 million in the 2023-24 SFY budget, providing the City with \$3.7 million in possible reimbursements for eligible expenditures. Because there is no assurance the State will appropriate additional funds for this program in the 2024-25 SFY, the City should refrain from including the \$1.5 million revenue and corresponding expenditures in its 2024 adopted budget for this program.

## Revenues

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

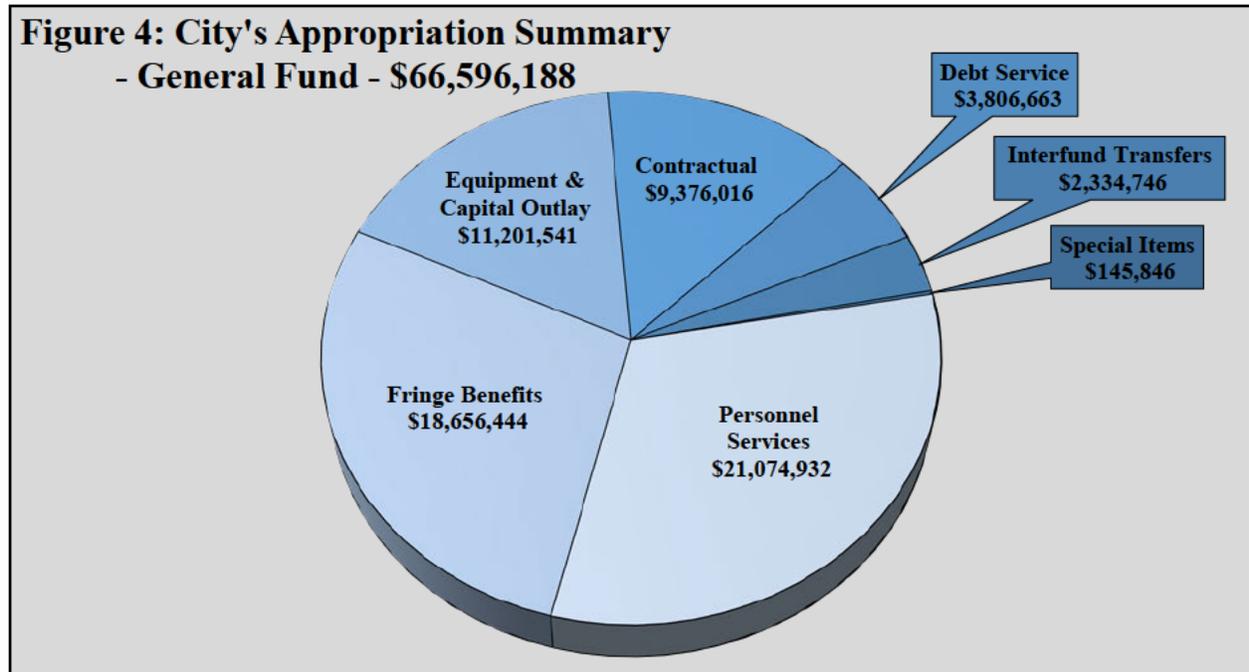


Sale of Metered Water – The 2024 proposed budget includes sale of metered water revenue of \$6.3 million, which is an increase of approximately \$730,000 from the amount collected in the 2022 fiscal year. We project that the City will receive approximately \$6 million from the sale of metered water revenue in the 2024 fiscal year if water usage and rates do not change. The City could potentially face a shortfall of \$240,000 if revenue estimates are not realized. The City plans to increase rates for the sale of metered water by 6 percent, but this requires the City Council to pass a resolution to raise water rates prior to the adoption of the budget.

Sewer Usage – The 2024 proposed budget includes sewer usage revenue of approximately \$7.7 million, which is an increase of approximately \$1.9 million from the amount collected in the 2022 fiscal year. We project that the City will receive approximately \$6.3 million from sewer usage revenue in the 2024 fiscal year, a potential shortfall of \$1.4 million. Although officials said they plan to increase rates for sewer usage by 6.48 percent, factoring the rate increase the City's potential shortfall is reduced to \$984,000 but is not eliminated.

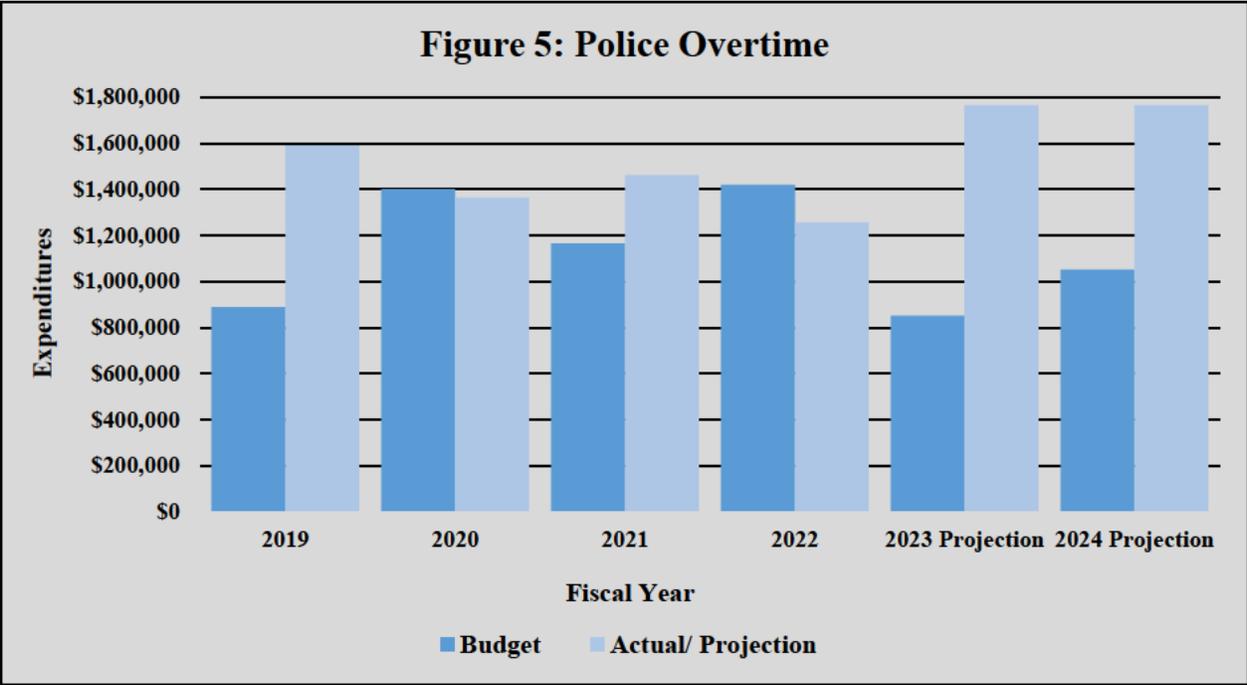
## Expenditures

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



Personnel Services – The City has budgeted \$24,734,615 for personnel services in the general fund and water fund combined. However, the City budget includes a reduction of \$2,013,521 in the general fund and \$201,683 in the water fund for a “vacancy factor,” a budgeting technique used by the City to account for open personnel positions. According to City officials, the vacancy factor is used when there are significant salary savings in prior fiscal years. However, the use of a “vacancy factor” may not be prudent, as it leaves personnel services appropriations with insufficient amounts to cover expenditures. As a result, the appropriations for personnel services are likely underestimated by as much as \$2 million.

Police Overtime – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for police overtime costs. The City’s 2024 proposed budget includes overtime funding of \$1.1 million for the police department. The City spent \$1.3 million on police overtime in 2022 and approximately \$1.3 million as of September 30, 2023. Based on our projections, the City will spend approximately \$1.8 million on police overtime in the 2023 fiscal year. Based on historical trends, we projected the City will spend the same as 2023 projections, which means the appropriation for overtime is likely underestimated by at least \$715,000 (Figure 5).



**Contingency** – Contingency appropriations 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 expenditure or revenue shortfalls, as identified in this review.

**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 district 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 2024. The last time the City budgeted for a tax overlay was in the 2021 adopted budget. During the last 10 years, the average amount of uncollected property tax has been 4.34 percent. City officials should reassess whether 100 percent property tax collection is achievable and, if not, estimate a tax overlay at an appropriate level. In light of recent economic conditions, it would be prudent for City officials to budget for a tax overlay.

Conflicting Budget Postings – During our review of the City’s proposed 2024 budget, two conflicting proposed budget documents were posted to the City’s website. One document was part of the 2024 Manager’s Budget Presentation and was the budget document shown at the City Council’s budget hearing meeting on October 10, 2023. The other document was the detailed Managers Proposed Budget. These documents were posted side by side on the City’s website. While we found the variances between the budgets to be immaterial, presenting two different proposed budget documents is concerning from a transparency perspective as members of the public, who rely on the proposed budget to make informed decisions, may not have been using the most accurate information.

### **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 2024 budget includes a tax levy of \$23,574,645, which is \$1,126,062 from exceeding the tax levy limit. In adopting the 2024 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 amount of fund balance appropriated for the water fund and amend to the amount that is available.
5. Review the estimates for New York State Touring Route Program revenue and expenditures and amend as necessary.
6. Review the estimate for sewer usage revenue and amend as necessary.
7. Consider including a reasonable estimate for contingencies in the budget.

8. Review the estimate for personnel services and amend as necessary.
9. Review the estimate for police overtime and increase it to an appropriate level or implement changes in procedures to manage costs within budgeted amounts.
10. Consider establishing a reasonable estimate for a tax overlay in the budget.
11. Ensure the budget presented to the public and posted to the City's website are consistent.

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 Dara Disko-McCagg, Chief Examiner of the Newburgh office, at (845) 567-0858.

Sincerely,

Randy Partridge  
Assistant 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 Ortt, Minority Leader, NYS Senate  
Hon. Liz Krueger, Chair, NYS Senate Finance Committee  
Blake G. Washington, Director, NYS Division of the Budget  
Dara Disko-McCagg, Chief of Municipal Audits, Newburgh Regional Office