

West Seneca Fire District #3

Capital Reserves

MARCH 2020



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

Contents

- Report Highlights 1**

- Capital Reserves 2**
 - How Should a Board Properly Manage Capital Reserves? 2
 - District Officials Did Not Transparently Fund or Use Capital Reserves 2
 - What Do We Recommend? 4

- Appendix A – Response From District Officials 5**

- Appendix B – Audit Methodology and Standards 7**

- Appendix C – Resources and Services 8**

Report Highlights

West Seneca Fire District #3

Audit Objective

Determine whether the Board properly managed capital reserves.

Key Findings

- The Board funded reserves by \$500,000 more than the amounts included in the annual budget over a five-year period.
- The District did not publish the required legal notices for five expenditures totaling \$180,000 that were subject to permissive referendum.

Key Recommendations

- Ensure budgets include the planned funding and use of reserves.
- Ensure reserve expenditures comply with legal requirements to publish notices of permissive referendum.

District officials generally agreed with our findings and recommendations and indicated they plan to take corrective action.

Background

The West Seneca Fire District #3 (District) is a district corporation of the State, distinct and separate from the Town of West Seneca (Town) in Erie County. The District is governed by an elected five-member Board of Fire Commissioners (Board). The Board is responsible for general management and control of financial operations.

The elected Treasurer acts as the chief fiscal officer and is responsible for receiving, disbursing and accounting for District funds, preparing the proposed budget, and providing a detailed report of the operation and condition of each reserve fund to the Board each year. The appointed Secretary is responsible for publishing legal notices at the Board's direction.

Quick Facts

2019 Budget	\$696,500
2019 Real Property Tax Levy	\$691,500

Audit Period

January 1, 2014 – October 17, 2019

Capital Reserves

In 1983, the District established a fire apparatus and equipment capital reserve,¹ and in 1995 established a buildings and grounds capital reserve. The District also established a heavy equipment and pumper capital reserve, but we were unable to obtain a resolution to determine when it was established. In 2014, the District established three other capital reserves: heavy rescue vehicle, aerial ladder truck and fire engine pumper fund.

How Should a Board Properly Manage Capital Reserves?

New York State Town Law requires a board of commissioners to annually adopt a fire district budget including a detailed and realistic estimate of the amount of revenues to be received and expenditures to be made during the fiscal year for which the budget is proposed.² These budgets should be accurate and balanced, with recurring revenues financing recurring expenditures, based on historical or known trends. To ensure transparency, the board's plans to fund or use reserves should be included in the annual budget.

A board of commissioners is responsible for properly establishing reserve funds in accordance with New York State General Municipal Law (GML). Effective January 1, 2007, GML³ requires a board of commissioners to adopt a resolution subject to mandatory referendum to establish a capital reserve fund. A capital reserve created for a "specific" item of equipment or a "specific" capital improvement must include the estimated maximum cost, and expenditures from this reserve must be approved by the board. GML requires that, if a capital reserve is created for the acquisition for a "type" of capital improvement or equipment, expenditures may only be made following the adoption of a resolution subject to permissive referendum.⁴ Such expenditures require a fire district to publish a legal notice informing residents of the board's planned action to expend funds.

District Officials Did Not Transparently Fund or Use Capital Reserves

From 2014 through 2018, the District made eight capital reserve expenditures totaling \$1.1 million. As of December 31, 2018, the five reserves⁵ had a balance of almost \$1.1 million, which was 161 percent of the 2018 budget (Figure 1).

1 The District's audited financial statements refer to this reserve as the truck and equipment reserve.

2 Town Law Section 181(1)

3 GML Sections 6-c and 6-g

4 A referendum is a ballot proposition submitted to qualified electors of the district at a special election, to approve or disapprove a resolution that has been adopted by the board. Actions subject to permissive referendum require fire district officials to publish and post a legal notice informing taxpayers about the board's plans. GML provides that the resolution authorizing the expenditure of money from a capital reserve does not take effect until 30 days after its adoption. However, if a petition signed by a sufficient portion of qualified voters is filed with the fire district secretary within 30 days after the board adopts the resolution, approval is subject to mandatory referendum, or by a majority of district voters.

5 Fire apparatus and equipment, buildings and grounds, heavy rescue vehicle, aerial ladder truck and fire engine pumper. Another reserve (heavy equipment and pumper) was closed in 2014.

Figure 1: Capital Reserve Activity

	2014	2015	2016	2017	2018
Beginning Balance	\$1,209,910	\$482,874	\$528,755	\$709,359	\$904,980
Add: Deposited	\$123,420	\$295,881	\$180,604	\$230,621	\$217,955
Less: Reserve Funds Used	\$850,456	\$250,000	\$0	\$35,000	\$25,000
Ending Balance	\$482,874	\$528,755	\$709,359	\$904,980	\$1,097,935
Budget	\$671,129	\$673,000	\$668,000	\$671,000	\$683,000
Percent of Budget	72%	79%	106%	135%	161%

The District’s annual budget included \$100,000 each year labeled as “transfer to other funds” which officials told us was intended to fund the capital reserves. During this same period, capital reserves were funded with over \$1 million, or \$500,000 (50 percent) more than budgeted. In particular, since 2016, the District has funded reserves with an average of \$210,000 annually. By not including all planned reserve activity in budgets, District officials did not provide taxpayers with a realistic picture of District activities.

Eight capital reserve expenditures totaling \$1.1 million were made from 2014 to 2018. These included the following examples:

- In 2014, the District purchased two pumper trucks, another vehicle and related equipment using \$840,000 from two reserves.⁶
- In 2015, the District paved a parking lot for \$135,000 using the buildings and grounds capital reserve.
- Also in 2015, the District purchased an ambulance for \$115,000 using the fire apparatus and equipment capital reserve.

Seven purchases, totaling over \$400,000, were subject to permissive referendum. Although the Board adopted resolutions approving all eight expenditures, for five of them totaling approximately \$180,000 the District did not publish the legal notice of permissive referendum as required. Examples include a chief’s vehicle for \$35,000 and roof repair for \$25,000.⁷ (For four other purchases totaling \$55,000 made from January 1 through August 31, 2019 and subject to permissive referendum, the District published the required legal notices.)

While the Board Chairman and Treasurer were aware of the permissive referendum requirement, they told us the roof repair was a result of a weather-related emergency with no time to delay the purchase. They also told us they forgot to publish a legal notice for three purchases.

⁶ Also in 2014, the District closed out the heavy equipment and pumper capital reserve and reduced the balance of the fire apparatus and equipment capital reserve.

⁷ The roof repair was reimbursed by insurance in July 2018 and the reserve fund was reimbursed in March 2019.

Because the Board and District officials did not include all funding of reserves in the annual budget or publish the required legal notices when using reserves, District voters were not properly informed and did not have the opportunity to voice their opinion on the District's funding and use of reserves.

What Do We Recommend?

The Board should:

1. Include all planned funding and use of reserves in the annual budget.
2. Ensure that the Secretary properly publishes legal notices for reserve expenditures that are subject to permissive referendum.

Appendix A: Response From District Officials

West Seneca Fire District No. 3

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Board of Fire Commissioners

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Donald Mendola
Christopher Boltz
David A. Guarino
Michael Kluck

Treasurer

Barbara Glinski

Secretary

Barbara Glinski

Attorney

Paul Notaro

March 9, 2020

Via Email Muni-Buffalo@osc.state.ny.us and U.S. Mail

Mr. Jeffrey D. Mazula, Chief Examiner
State of New York
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203

Re: West Seneca Fire District No. 3
Financial Audit January 1, 2014 – October 17, 2019

Dear Mr. Mazula:

I am preparing this letter in response to the draft report of examination received on February 7, 2020 and the exit discussion held on February 14, 2020. The entire Board of Fire Commissioners and Fire District Attorney have reviewed the Draft Report of Examination for the period from January 1, 2014 to October 17, 2019. The Board of Fire Commissioners does not contest the Auditor's findings contained in the Draft Report of Examination. The Board of Fire Commissioners did fund various capital reserve accounts as detailed in your draft report. The Board of Fire Commissioners, after passing the proper resolutions did not publish four required Permissive Referendum legal notices for the expenditure of capital reserve funds. At no time was it the intention of West Seneca Fire District #3 to misinform or limit the voice of the residents of the fire district.

Each member of the Board of Fire Commissioners of West Seneca Fire District #3 take very seriously their fiduciary responsibility to the residents of the fire district. In each year, the annual budget has allocated funds to be deposited in the various Capital Reserve Funds. The purpose of this planned funding is to provide the necessary funds to replace various fire apparatus and equipment at the end its useful life. Based on the amount allocated to each capital reserve fund, the fire district will be able purchase the fire apparatus or equipment outright with the Capital Reserve Funds. By budgeting these costs annually, the Board of Fire Commissioners believes they will save the taxpayers thousands of dollars in interest payments and bonding expenses.

Also, as your Draft Report of Examination details, West Seneca Fire District #3 properly passed the resolutions authorizing the expenditure of funds from the various Capital Reserve Accounts. Unfortunately, through an oversight the fire district Secretary, the fire district failed to publish the required Permissive Referendum legal notice in three instances. In the case of the funds required for an emergency roof repair, resulting from storm damage, the fire district believed that the publication of

a legal notice was not required because repair costs would be reimbursed by insurance coverage for storm damage. The funds expended for the roof repair were reimbursed to the Building and Grounds Capital Reserve Fund.

The Board of Fire Commissioners has and will continue to address the audit findings on an ongoing basis to assure that the residents of West Seneca Fire District #3 are properly informed of the financial expenditures of the fire district and are afforded the opportunity voice their opinions regarding these matters.

The Board of Fire Commissioners acknowledges that it must initiate a Corrective Action Plan to address the findings and recommendations pursuant to New York General Municipal Law §35(2)(a). To that end, West Seneca Fire District #3 has taken the following corrective steps.

1. Implemented a new procedure with checklist to make sure that a proper resolution and publication of legal notice are completed before the Fire District Treasurer makes any expenditure from a Capital Reserve Fund.
2. Updated the budgeting program to accurately detail the allocation of budgeted funds as well as expenditures made throughout the year.

West Seneca Fire District #3 will also take additional action(s) needed to further address the findings and recommendations of this audit. The District will review all policies and procedures and update as necessary. The Board of Fire Commissioners will also address the recommendations of the fire district's independent auditors and implement additional financial controls as necessary.

Be assured that the Board of Fire Commissioners of West Seneca Fire District #3 will take all steps necessary to rectify the findings in the report.

Sincerely,

John O. Montaldi
Chairman, Board of Fire Commissioners
West Seneca Fire District #3

Appendix B: Audit Methodology and Standards

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, our audit procedures included the following:

- We interviewed Board commissioners and the Treasurer to gain an understanding of the District's budgeting, fund balance and reserve practices.
- We reviewed District policies and procedures to identify and gain an understanding of existing processes and plans for reserves.
- We reviewed the District's audited financial statements from 2014 through 2018 to evaluate budget-to-actual variances.
- We analyzed capital reserve activity from December 31, 2014 through August 31, 2019 to assess whether they were properly funded and used in accordance with statute.
- We reviewed Board minutes for Board approvals and resolutions to assess whether capital reserves were properly established and whether annual transfers of surplus funds to reserves and disbursements from reserve accounts were Board-approved and proper.
- We requested copies and searched online legal notices for capital reserve permissive referendums from January 1, 2013 through December 31, 2018.

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.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

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 C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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Local Government and School Accountability Help Line: (866) 321-8503

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