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November 27, 2024

Mayor Kate Wdowiasz
Members of the City Council
City of Dunkirk
342 Central Avenue
Dunkirk, NY 14048

Report Number: B24-1-10

Dear Mayor Wdowiasz and Members of the City Council:

Chapter 56 of the Laws of 2024, Part DD (the City of Dunkirk Fiscal Recovery Act; "Act") authorizes the City of Dunkirk (City) to issue debt not to exceed \$18.5 million to liquidate the accumulated (actual) deficits in the general fund, water fund, sewer fund and capital projects fund existing at the close of its 2024 fiscal year.

During the effective period of the Act, the Fiscal Affairs Officer must submit the proposed budget for the next succeeding fiscal year to the State Comptroller no later than 30 days before the date scheduled for the City Council'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 budget consistent with the recommendations contained in this report.

Our Office completed an independent evaluation (review) of the City's proposed budget for 2025. The review addressed the following question:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

The lack of complete, accurate, and current accounting and financial records significantly limited our review and precluded us from determining the reasonableness of all of the City's significant revenue and expenditure projections. Although we have advised the Mayor, Treasurer, Fiscal Affairs Officer and members of the City Council, on multiple occasions including in two letters dated September 5, 2024, and October 15, 2024, that the financial records were incomplete and

inaccurate, they have not taken sufficient action to address these deficiencies and continued to make key financial decisions including developing this budget without adequate information.

However, our review disclosed the following matters which should be reviewed by City officials for appropriate action. The Act 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, as well as other pertinent information. We also held conversations with the Mayor, the Fiscal Affairs Officer, the City Treasurer (Treasurer), Department heads and four of five members of the City Council (Council); the fifth Councilmember did not reply to our invitations to do so.

We identified and examined significant estimated revenues and appropriations (estimated expenditures) for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We identified any significant new or unusually high or low 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 reviewed the allocation of certain costs among different funds to determine the reasonableness and appropriateness of the allocations; although each of these appropriations may not be significant, the proper amounts must be allocated to the proper funds to ensure that the revenues in each fund are sufficient to fund actual recurring expenditures. We also reviewed the provided City records and evaluated them against bank statements for accuracy, then based our review of the reasonableness of revenue and expenditure projections on those records.

We attempted to analyze, verify and/or corroborate trend data and estimates, where appropriate; however, due to the lack of reliable accounting records, we were unable to complete these procedures. At the time of our review, the City's most recent Annual Financial Report, which is required to be submitted to the State Comptroller within 90 days after fiscal year end,¹ was submitted for the 2021 fiscal year. Furthermore, the most recent available audited financial statements completed by an independent accountant were for 2022.² The findings reported in the 2022 financial statements by the independent external auditors further support our position that the City's accounting records are not reliable or up to date. They also acknowledge the rapid deterioration of the City's finances and report that officials do not have the ability to effectively monitor the City's cash position or results of operations, making financial planning and budgeting incredibly difficult.

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 2025 fiscal year consisted of the 2025 proposed budget and supplementary information. Figure 1 summarizes the proposed budget submitted to our Office, Figure 2 summarizes the general fund's revenue and other financing sources and Figure 3 summarizes the general fund's appropriations.

1 A 30-day extension is possible upon written request received by the State Comptroller from the municipal chief executive officer before the end of the original filing period.

2 The 2022 final audited financial statements, supplemental information, management letter and auditor communication letter were completed on November 13, 2024 and provided to us on November 14, 2024.

The Mayor, Council, Treasurer and Fiscal Affairs Officer have a shared responsibility for managing and maintaining the City’s fiscal health. To maintain the City’s fiscal stability, City officials must develop and adopt realistic and structurally balanced budgets that provide sufficient recurring revenues to finance recurring expenditures. The proposed budget is not balanced. For example, the general fund contains \$1,450,276 more in revenue estimates than appropriation estimates, as is illustrated in Figure 1:

Figure 1: 2025 City of Dunkirk Proposed Budget

Fund	Appropriations and Provisions for Other Uses	Estimated Revenues	Appropriated Fund Balance	Real Property Taxes	Revenues Over/(Under) Appropriations
General	\$18,704,778	\$9,247,778	\$0	\$10,907,276	\$1,450,276
Water	4,537,074	3,550,100	0	0	(986,974)
Wastewater	4,732,448	4,362,600	0	0	(369,848)
Refuse	926,512	1,038,000	0	0	111,488
Boardwalk	60,690	52,000	0	0	(8,690)
Total	\$28,961,502	\$18,250,478	\$0	\$10,907,276	\$196,252

Fund Balance

Fund balance represents the cumulative residual resources from prior fiscal years’ operations that may be appropriated in the annual budget to help finance operations and reduce the tax levy.

While fund balance can be appropriated in the budget there must be sufficient fund balance available to do so, and consistently appropriating fund balance – instead of planning to use recurring revenue sources – can deplete fund balance to levels that are insufficient to cover unexpected contingencies and routine cash flow, as is the City’s current situation.

The City’s most recently completed audited financial statements reported that as of December 31, 2022, unassigned fund balance in the general, water, wastewater, refuse and boardwalk funds were (\$6,827,480), (\$1,163,085), (\$247,482), \$0 and \$0, respectively. The Mayor told us she anticipates that the City’s reported operating results in the 2023 audited financial statements will be significantly worse than the deficits in 2022 and officials are also projecting deficits in 2024. Because the City does not have accurate, complete and up-to-date accounting records, City officials do not know the City’s current financial position and cannot properly monitor the City’s rapidly deteriorating financial condition or its significant cash flow issues.

Despite the City’s deficits and cash flow issues, the 2025 proposed budget includes a planned deficit in the water, wastewater and boardwalk funds which will further negatively impact the City’s overall financial condition and exacerbate cash flow issues. The City’s water and wastewater funds should be self-sustaining and funded primarily through user charges. However, from 2020 through 2022, the City’s actual water fund expenditures exceeded revenues by more than \$1.5 million, and the wastewater fund’s operating deficits averaged over \$400,000 annually over those three years. The City funded these operating deficits by relying on the general fund tax levy and fund balance. This approach negatively affected the general fund’s financial condition to the point that the City has no remaining fund balance.

With fund balance depleted, the City has limited options available to fund any increases in operating costs. At the time of our budget review, City officials did not have planned increases for

water or wastewater rates to address the shortcomings in the general, water and wastewater funds. Based upon the tax levy proposed in the City’s 2025 budget, the City will have exhausted its constitutional tax limit (CTL), which is the maximum amount of real property tax that may be levied in any fiscal year. As a result, the City’s ability to raise taxes going forward will be severely limited. The proposed budget increases the tax levy by \$5.6 million or 106 percent.

At the time of our review, the City’s known outstanding liabilities totaled more than \$20.5 million as follows: a \$12.7 million revenue anticipation note (RAN) due in July 2025 plus interest of \$952,196; \$4.3 million past due to the New York State and Local Retirement System (NYSLRS), \$1.75 million for two pumper trucks and \$795,000 owed to the Dunkirk City School District for taxes collected and not remitted, as required. The 2025 proposed budget does not provide for satisfying these obligations and the Mayor told us that she intends to issue deficit financing as authorized by the Act to satisfy each of these liabilities, except for the pumper trucks. However, a liability exists for the pumper trucks and City officials do not have an alternate plan in place to satisfy this liability. It should be noted that these liabilities exceed the \$18.5 million maximum amount authorized by the State Legislature pursuant to the Act.

Revenues

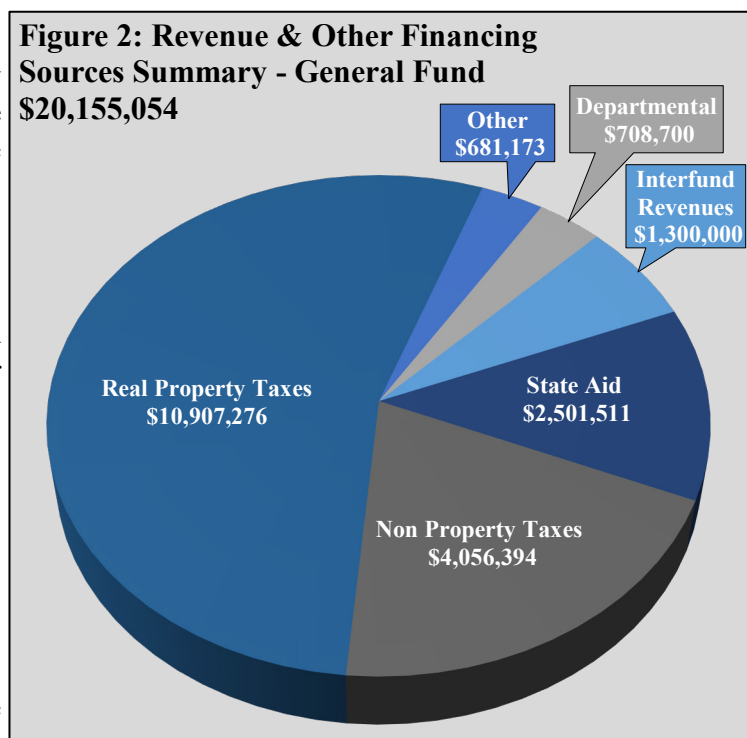
The City derives the majority of its general fund revenues from real property taxes, sales tax and State aid. The proposed budget submitted to our Office for the City’s general fund revenues is summarized in Figure 2.

Interfund Revenues – The general fund’s 2025 proposed budget includes interfund revenues due from each of the other operating funds for administrative fees as follows:

- \$625,000 from the wastewater fund,
- \$525,000 from the water fund, and
- \$150,000 from the refuse fund.

While the wastewater and water funds have not had the cash available to pay the administrative fee to the general fund in 2021, 2022 and 2023 and will very likely not make these payments for 2024, officials budgeted for such transfers totaling \$1.3 million in the 2025 proposed budget.

The Fiscal Affairs Officer stated that the administrative fee transfer figures budgeted for 2025 stayed the same as the past few years and that the calculation for these figures derived from specific line items within the general fund that contributed to the administration of wastewater, water and refuse operations. These budget line items included: Common Council, Mayor, Fiscal Affairs Office, Treasurer’s Office, City Attorney, Personnel Department, Public Works Administration, Central Garage, Central Copying and Mailing and Central Data Processing, which totaled \$1,868,821.



The Fiscal Affairs Officer provided documentation that illustrated that each fund was responsible for a percentage of the costs as follows; general – 31 percent, water – 28 percent, wastewater – 33 percent and refuse – 8 percent. The Fiscal Affairs Officer told us that the percentage was determined by the former Fiscal Affairs Officer (who is the current part-time account clerk) based on the revenues derived from each fund, with the largest revenue funds financing the highest allocation of costs. However, we determined that if the percentages are based on revenues generated, the City’s calculation and allocation of costs are inaccurate. See Figure 3.

Figure 3: Interfund Administrative Fee Appropriations

Fund	Percent Allocation Per City	2025 Proposed Budget Allocation	Revenues in 2025 Proposed Budget	Percent of Total Revenues	OSC Estimate	Amount Over/ (Under) Estimated
General	31%	\$568,821	\$20,155,054	69%	\$1,294,114	\$(725,293)
Water	28%	525,000	3,550,100	12%	227,945	297,055
Wastewater	33%	625,000	4,362,600	15%	280,114	344,886
Refuse	8%	150,000	1,038,000	4%	66,648	83,352
Total		\$1,868,821	\$29,105,754		\$1,868,821	\$0

The Council should evaluate the costs that should be included in the administrative fee that is charged to other funds to determine reasonableness and a fair allocation of expenditures. The Council should also ensure estimated revenues in the water, wastewater and refuse funds are sufficient to cover any administrative fees included in the 2025 proposed budget as general fund estimated revenues and adjust estimates as needed.

Without allocation methods that are supported, certain funds may assume an inequitable burden for costs that do not apply to their operations. This could result in taxpayers or ratepayers being inequitably charged for the actual services provided by each fund. City officials should develop an allocation plan based on a detailed analysis that ensures costs allocated to each fund are directly related to its operations.

Metered Water Sales – The 2025 proposed budget includes metered water sales of approximately \$3.5 million, which is a decrease of approximately \$337,300 from the 2024 adopted budget. We were unable to project the amount the City will bill in 2024 as the reports we received from the Treasurer contained conflicting information. For example, the Treasurer’s Office recorded July 2024 residential metered water sales totaling more than \$217,000 but the billing register showed only a total billed amount of \$182,000. If actual metered water sales revenue are decreasing, the Council should evaluate the City’s appropriations noted below and determine what action(s) are necessary for the fund to operate without reliance on the general fund.

Sewer Rents – The 2025 proposed budget includes sewer rents of approximately \$4.3 million, which is a decrease of approximately \$218,400 from the 2024 adopted budget. We were unable to project the amount the City will bill in 2024 as the reports we received from the Treasurer had conflicting information. Because these revenue estimates have decreased, the Council should evaluate the City’s appropriations noted below and determine what action(s) are necessary for the fund to operate without reliance on the general fund.

Appropriations

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

Pumper Trucks – City officials initiated the purchase of two pumper trucks in February 2023, which are expected to be ready for delivery in May 2025. The Mayor did not include the cost of the pumper trucks, totaling \$1,750,000, in the proposed budget and has no other funding plan for them. The Mayor explained that they are considering selling one of the trucks to another municipality or fire entity because the trucks are in high demand, and that they are

hopeful they will be able to obtain funding for the other pumper truck. Given that neither of these scenarios may come to fruition, City officials must consider how they are going to fund the pumper trucks and how that will impact the 2025 budget.

Revenue Anticipation Note – City officials issued a RAN in July 2024 of more than \$12.7 million that is to be repaid, with interest of \$952,196 in July 2025. The Mayor did not include the RAN interest in the 2025 proposed budget. We advised City officials that they should include an appropriation in the budget for this payment as the ability for the City to issue deficit bonds is dependent upon actions that may not occur by July 2025 due to the state of the City's records. The Act requires the City to prepare a report detailing the amount and cause of the deficits and to submit such report along with the independent audit report for fiscal year ending 2024 to the State Comptroller prior to the State Comptroller's review and certification of the deficits. Under the Act, the City may not issue deficit bonds unless and until the State Comptroller has reviewed and confirmed the existence of the deficits and has certified the amount of the deficits.

Given the state of the City's accounting and financial records and delay in obtaining audited financial data, the City's independent audit report for the 2024 fiscal year might not be completed before July 2025 and, therefore, the City might not be able to issue deficit bonds in time to pay the interest due on the RAN.

Social Security and Medicare Taxes – The City has budgeted \$946,787 for Social Security and Medicare taxes. The Social Security and Medicare taxes included in the 2025 proposed budget do not align with how officials allocated personal services in the budget, as it should. City officials should use total budgeted appropriations for personal services of \$11,487,719 when calculating Social Security and Medicare taxes. The total budgeted appropriations for personal services multiplied by 7.65 percent is \$878,810. As a result, the City's share of Social Security and Medicare taxes are likely overestimated by \$67,977. See Figure 5.

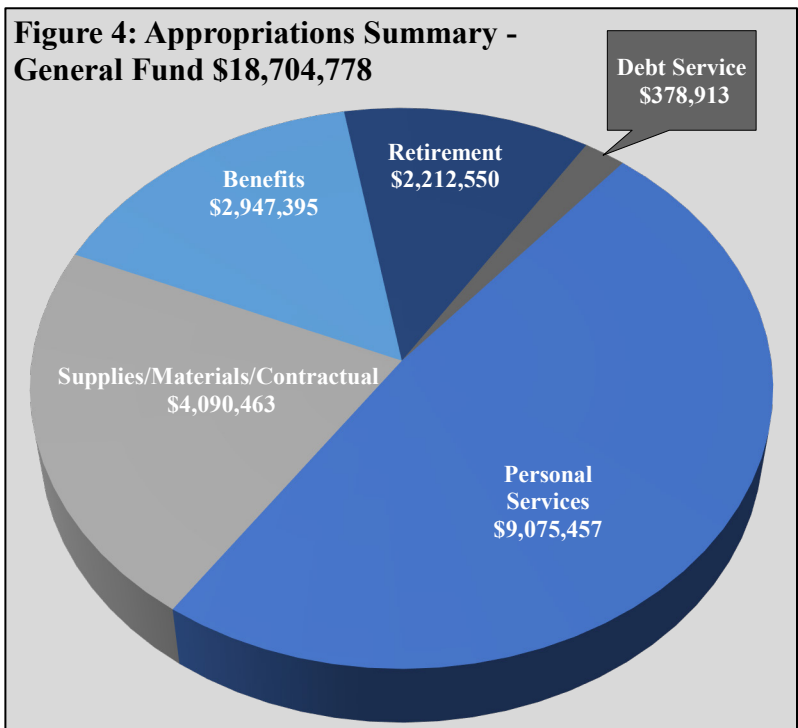


Figure 5: Social Security and Medicare Taxes Appropriations			
Fund	2025 Proposed Budget	OSC Calculated	Amount Over/(Under) Estimated
General	\$750,000	\$694,272	\$55,728
Water	86,000	77,123	8,877
Wastewater	88,500	82,374	6,126
Refuse	22,287	22,593	(306)
Boardwalk	0	2,448	(2,448)
Total	\$946,787	\$878,810	\$67,977

Workers' Compensation – The 2025 proposed budget includes a \$265,193 appropriation for workers' compensation costs. However, the Fiscal Affairs Officer did not receive workers' compensation payment estimates until after the proposed budget was developed. Those estimates total \$278,509. Based on this, the appropriation for workers' compensation payments is likely underestimated by \$13,316 and these costs are not properly allocated in the budget. The Council should increase this appropriation by \$13,316. See Figure 6. Although immaterial in amount, these variances demonstrate City officials' lack of accounting knowledge and their inability to maintain accurate accounting records or budget appropriately.

Figure 6: Workers' Compensation Appropriations			
Fund	2025 Proposed Budget	OSC Calculated	Amount Over/(Under) Estimated
General	\$170,595	\$220,022	\$(49,427)
Water	45,000	24,453	20,547
Wastewater	40,151	26,096	14,055
Refuse	9,447	7,158	2,289
Boardwalk	0	780	(780)
Total	\$265,193	\$278,509	\$(13,316)

Health Insurance – The 2025 proposed budget includes appropriations totaling \$2,196,000 for health insurance and opt-out payments for those employees who choose not to join the City's health insurance plan. We calculated the City's estimated health insurance costs by multiplying the number of employees currently enrolled times the anticipated cost per employee, and allocating the costs to the funds in which the employees' salaries are allocated. In addition, we calculated the estimated opt-out payments by eligible employee per collective bargaining agreements. We determined that the City underestimated the health insurance appropriations in all funds by a total of \$(183,462). See Figure 7.

Figure 7: Health Insurance Appropriations			
Fund	2025 Proposed Budget	OSC Calculated	Amount Over/(Under) Projected Expense
General	\$1,630,000	\$1,756,190	\$(126,190)
Water	243,000	264,299	(21,299)
Wastewater	277,000	289,861	(12,861)
Refuse	46,000	69,112	(23,112)
Total	\$2,196,000	\$2,379,462	\$(183,462)

Furthermore, we noted that the City is providing health insurance to at least one part-time employee who does not appear to be eligible to receive such benefit, at a cost of \$8,408. We

question whether there is authorization to provide this individual with health insurance coverage. The majority of employee benefits provided by the City to employees are contractual obligations, but the Council should consider reviewing the eligibility of individuals currently receiving health insurance to ensure the City is only paying for costs it is obligated to pay.

Retiree Health Insurance – The 2025 proposed budget includes appropriations of \$272,400 for the cost of retiree health insurance. We calculated the City’s estimated retiree health insurance costs by multiplying the number of retirees on the City’s health insurance plan by the anticipated cost per retiree and allocating the costs to the fund in which the employee retired from. Based on this analysis the appropriation for total retiree health insurance costs are likely underestimated by \$4,890; furthermore, the City budgeted \$16,400 for retiree health insurance in the wastewater fund even though there are no employees who retired from wastewater that are on the City’s health insurance. In addition, the City budgeted \$13,852 more in the water fund than necessary and underestimated retiree health insurance for the general fund by \$35,142. See Figure 8. Although immaterial in amount, these variances further demonstrate City officials’ lack of accounting knowledge and their inability to maintain accurate accounting records or budget appropriately.

Figure 8: Retiree Health Insurance Appropriations

Fund	2025 Proposed Budget	OSC Calculated	Amount Over/(Under) Projected Expense
General	\$216,000	\$251,142	\$(35,142)
Water	40,000	26,148	13,852
Wastewater	16,400	0	16,400
Total	\$272,400	\$277,290	\$(4,890)

Employee Retirement – The 2025 proposed budget includes retirement appropriations for members of the Employee Retirement System of \$896,615, \$64,600 more than the projected bill of \$832,015 from the NYSLRS. In addition, the manner in which City officials allocated retirement costs amongst the funds is inequitable as the costs do not align with correlating personal service costs. See Figure 9.

Figure 9: Employee Retirement Appropriations

Fund	Personal Service Totals	Percent of Personal Service Total per Fund	Retirement Billing Allocation	OSC Calculated Allocation	Amount Over/ (Under) Estimated
General	\$3,247,764	57.4%	\$606,615	\$477,416	\$129,199
Water	1,008,144	17.8%	120,000	148,196	(28,196)
Wastewater	1,076,790	19.0%	140,000	158,286	(18,286)
Refuse	295,328	5.2%	30,000	43,413	(13,413)
Boardwalk	32,000	0.6%	0	4,704	(4,704)
Total	\$5,660,026		\$896,615	\$832,015	\$64,600

Police and Fire Retirement – The 2025 proposed budget includes retirement appropriations for members of the Police and Fire Retirement System of \$1,606,275. We compared the budgeted figure to the projected bill from NYSLRS which shows anticipated costs of \$1,874,749. Therefore, this appropriation is likely underestimated by \$268,474 and the Council should increase the budget appropriation by \$268,474 to be in line with actual billings.

Debt Service – Wastewater Fund – The wastewater fund budget includes \$672,758 in debt payments. However, based on debt schedules provided by the City there are outstanding debt payments of \$325,838 in the wastewater fund. As such, the appropriation for debt service for the wastewater fund is likely overestimated by \$346,920. The Council should adjust the budget to align with actual anticipated debt payments in 2025.

Contingency – Contingency accounts are used by local governments as a means of providing funding for unexpected events. City officials included a contingency appropriation of \$64,228 in the general fund in the 2025 proposed budget. Considering the significant budgetary concerns discussed in this letter, the City’s very poor financial condition and the expiration of collective bargaining agreements, it would be prudent to have contingency spending in all operating funds available for unforeseen increases in expenditures or revenue shortfalls. The Council should determine the appropriate amount of contingency appropriations in each fund.

Collective Bargaining Agreements

The City has three different contracts with employee unions (Local 616, 912 and 2693) which expire on December 31, 2024. We recommend that the Council consider the potential financial impacts of contract settlements on the City’s budget and financial position.

Tax Cap Compliance

New York State 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 2025 proposed budget includes a tax levy of \$10,907,276, which exceeds the tax levy limit. The Council, however, adopted a local law to override the tax levy limit, thereby permitting the Council to adopt a budget that includes a tax levy greater than the tax levy limit.

While the Mayor communicated the implementation of a hiring freeze, and an order for no unnecessary spending or non-emergency overtime in an attempt to curb spending, officials have not taken sufficient action to prevent the City’s finances from continuing to decline. For example, it is concerning given the dire financial situation the City is in that officials do not appear to have attempted to identify unnecessary budgeted items.

Recommendations

The Council should:

1. Allocate appropriations identified in this report to the appropriate funds.
2. Adopt structurally balanced budgets that include realistic estimates and fund recurring expenditures with recurring revenues.
3. Make updating and correcting the City’s accounting records a priority and ensure records are updated as soon as possible so the Council has appropriate financial information to monitor the City’s finances and make informed decisions.

City officials should:

4. Review the proposed estimates for revenues and expenditures and amend as necessary.

City officials should closely monitor revenues and expenditures and make timely and properly authorized adjustments to the budget as needed throughout the year.

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 Melissa A. Myers, Chief of Municipal Audits in the Buffalo Regional Office, at (716) 847-3647.

Sincerely,

Robin L. Lois, CPA
Deputy Comptroller

cc: Mark Woods, City Treasurer
Ellen Luczkowiak, City Fiscal Affairs Officer
Lillian Devine, City Clerk
Blake Washington, Director, NYS Division of Budget
Hon. Andrea Stewart-Cousins, NYS Senate Majority Leader
Hon. Carl E. Heastie, NYS Assembly Speaker
Hon. Helene E. Weinstein, Chair, NYS Assembly Ways and Means Committee
Hon. Liz Krueger, Chair, NYS Senate Finance Committee
Hon. Andy Goodell, NYS Assembly Representative
Hon. George M. Borrello, NYS Senate Representative
Melissa A. Myers, Chief of Municipal Audits, Buffalo Regional Office