

December 3, 2018

THIS REPORT HAS BEEN PREPARED UNDER EXPEDITIOUS TREATMENT PROCEDURE OF SCARSDALE FORUM INC BY THE COMMITTEE WHOSE MEMBERS' NAMES APPEAR BELOW. IT HAS BEEN APPROVED BY THE EXECUTIVE COMMITTEE OF THE FORUM AND AUTHORIZED FOR RELEASE TO THE PUBLIC, BUT IT HAS NOT YET BEEN SUBMITTED TO THE FORUM MEMBERS FOR THEIR APPROVAL.

SCARSDALE FORUM INC.

**Report of the County Fiscal Affairs Committee
On
The Proposed 2019 Westchester County Budget**

The Committee proposes the following resolution for adoption by the Forum:

Resolved, that the Report of the County Fiscal Affairs Committee on the Proposed 2019 Westchester County Budget, having been prepared for release to the County Executive, County Board of Legislators, our delegation to the state legislature, and the general public under the Expeditious Treatment Procedure, be approved.

MAJOR CONCLUSIONS AND RECOMMENDATIONS

1. During the past year, several major ratings agencies have downgraded the credit rating of Westchester County from its longstanding AAA rating, citing several unsound budgeting and budget management practices earlier in the current decade, including several actions resulting in depletion of the County's financial reserves. Some rating agencies have noted the beginnings of improvements in budget matters this past year, but have stressed that the County still has much work to do to stabilize its operations and finances. The County Fiscal Affairs Committee (the "Committee" or "we") agrees, and also said so in its report last year.

2. The County Executive's Proposed 2019 Budget includes \$1.94 billion of total operating expenditures, all but \$460 million of which are required by state or federal mandates. The Budget as proposed is balanced and includes a 2 percentage point increase in the County's real property tax levy (actual community rates will vary somewhat after application of a state prescribed equalization formula among Westchester County's communities).

3. The Committee commends the County for beginning the process of stabilizing its finances, with appropriate services on a sustainable basis and affordable costs, but has observed several items which do not yet appear to be fully consistent with sound budgeting. The Committee recommends further review of these items, and some changes, recognizing that re-stabilizing matters after the numerous unsound budgeting practices of the past decade may not be entirely possible in a single year. Still, the Committee recommends these items for 2019 be further reviewed.

4. Among the more significant items which the Committee recommends be further reviewed and to at least some extent changed are (a) transfer of three County parking lots to the Westchester County Local Development Corporation (“L.D.C.”), for the same use, in exchange for \$22 million; (b) deferral rather than current expense payment for certain pension obligations and related expenses and interest as discussed below through the New York State Pension Fund Stabilization Program; and (c) bonding rather than current expense payment for \$8.5 million of certiorari costs.

DISCUSSION¹

2019 Operating Budget²

The Westchester County Executive’s currently proposed budget for the next year shows \$1.94 billion of operating budget expenditures, all but \$460 million of which is required by state or federal mandates. On the revenue side, key sources are real property taxes of \$570.6 million, and County sales and use taxes of \$578.7 million. The County share of mandated costs is \$960 million. See attached pie charts of County expenses and revenues, B-3 and B-5, respectively.³ The 2019 budget proposes an increase in total County property taxes of 2 percentage points, representing the second year of an increase after seven years without a percentage property tax increase. That accomplishment has not been without consequences, and has left the County with many tough questions and tough choices in order to achieve a reasonably reliable balanced budget for the upcoming year. Had the County increased property taxes by 1 percentage a year during those seven years, the County would have an additional \$77 million and not be faced with its current problems in balancing the budget.⁴

Over the last eight years we have criticized the prior County Administration for a wide variety of fiscal policies, implemented to facilitate achieving a zero percent tax levy increase. The new County administration has criticized these practices and, in this its first budget, reverses some of them, maintaining staffing and service levels and avoiding the use of reserve funds to balance the budget. The new administration has settled all union contracts and budgeting to pay most of its pension costs.

The Operating Budget as submitted by the County Executive achieves a balanced budget with a 2% property tax levy increase, but only by relying in part on possibly speculative revenue, and utilizing bonding to pay for operating costs. We recommend that the Legislature use its role within the budget process to produce a more realistic and thorough budget that is consistent with sound and prudent fiscal management practices, avoids further reductions to the unrestricted fund

¹ In preparing this report, members of the Committee reviewed the proposed budget and attended meetings of the Board of County Legislators at which presentations on the proposed budget were made. Among those presenting were County Executive George Latimer, County Budget Director Larry Soule, County Legislator Ben Boykin and County Attorney John Nonna. Certain information and assertions made about the proposed budget were made during those presentations and are so noted in this Report.

² 2019 Proposed Operating Budget available at <https://www3.westchestergov.com/images/stories/budget/2019/2019proposedoperating.pdf>.

³ 2019 Proposed Operating Budget at pdf pages 23 and 25.

⁴ Interview with County Budget Director Larry Soule.

balance, maintains taxpayer confidence, and maintains credit rating agency ratings at the highest possible level. The County also needs to find a way to start increasing the unrestricted fund balance either beginning in 2019 or 2020 at the latest. The County is trying to find a pathway to improve its finances, both short and long term.

We also commend the County for putting a stop on leasing out the airport for forty years, reviewing the lease for Playland and for going forward on the Food Waste study.

There are some proposals we consider unwise and with which we disagree. These include a proposed transfer of three parking lots to raise \$22 million and the bonding for certiorari costs. We believe both are proposed due to the tightness of the budget and the lack of substantial new revenues, which we discuss more fully below. However, we commend the overall direction of the new administration and urge it to eliminate these sorts of proposals in future budgets. To do so, the administration should work harder to find new revenues and improve the efficiency of County government operations to find savings wherever possible. The County should also explore possibilities for cost savings through shared service arrangements with municipalities and school districts.

The Committee is pleased to see that staff budget line items have been added this year to improve the ability of the County government to deliver appropriate levels of services. It is good to learn that all union contracts have been settled at a rate which is fair for both the union members and the County and that all union members are now contributing toward health care costs.⁵ We further approve of a hiring freeze that has been put in place by the current administration due to budgetary problems.

The Committee is also pleased to see revenues increased by \$1.1 million by raising fees for use of golf courses, parks and other County recreation such as RV rentals at Croton Harmon Park.

The County should also consider increasing airport takeoff and landing fees, and fees paid by on-site food vendors. The airport operated at a deficit in 2017 and revenues are not projected to exceed costs in future years.⁶ Given the current projected use of fund balances to offset operating costs, it is recommended that the airport finances be reviewed with a view to using increased usage and licensing fees to eliminate or reduce this operating loss situation.

Revenues

The line item reflecting \$22 million for parking lot transactions in the County operating budget proposal needs to be carefully re-evaluated. Executing this plan appears to be subject to a number of conditions that may not be met. The Committee believes that the budget as proposed in fact may not be a balanced budget, because the projected \$22 million of revenue is based on selling three parking lots along the Bronx River Parkway in what is considered to be parkland. This

⁵ M. Lungariello, *CSEA union contract will cost Westchester \$27.8M*, LoHud – Oct. 12, 2018, <https://www.lohud.com/story/news/local/westchester/2018/10/12/civil-service-employees-association-westchester/1600393002/>

⁶ 2019 Operating Budget D-1 at pdf page 647 and following.

transaction has not yet been approved by the County Board of Legislators. It is unclear when such approval might be forthcoming or unclear whether any such revenue will be forthcoming during the budget year.

Other factors that lend uncertainty to this transaction include:

- The L.D.C. (the proposed transferee of the lots) would need its charter modified by the State to allow it to buy and operate the three parking lots. Whether the State legislature would approve such an amendment and the Governor would sign off on it is an open question.
- In addition, there are several conflicting interpretations as to whether the County can sell the three parking lots on park land without the express consent of the State.
- Another question: must the County offer the parcels to White Plains for \$1.00 first before trying to sell the parcels to the L.D.C. Another view is that since the parking lots are not being used as park land, White Plains would have to pay the fair market value if it wanted to buy the land from the County. County Attorney John Nonna has reported that he has researched this issue and under one scenario he believes the County does not need the State's permission to sell off the lots.⁷
- Another question: what happens to the land when the L.D.C. bonds are paid off? Does the County get the parking lots back from the L.D.C., and if so, what would be the cost to the County for that transfer? Does the land stay with the L.D.C. and if so, would the County receive any continuing revenue from such an arrangement?

In light of these and other uncertainties, we believe that reliance on the receipt of \$22 million from the sale of the parking lots to the L.D.C. should be removed from the proposed budget.

We also note that, if the transaction is approved and goes forward, the County will lose the parking lots as a revenue source, projected at \$2.5 million per year. This will create another budget gap that would need to be filled in future budgets.

A point of emphasis from the ratings agencies: including conditional transactions in a budget is a negative factor that they flag. Listing these exchange deals would not help the County in its efforts to recover from its 2013 Moody's ratings downgrade from Aaa to Aa1.⁸

With regard to the County sales tax, we believe the forecast of a 5% increase in sales tax revenue for next year is unrealistic. Even though sales tax revenues are higher than expected this year due to higher gasoline sales, the price of gasoline is historically volatile. Moreover, though sales tax receipts this year are higher, that is not the norm. For the last couple of years, the County

⁷ Budget presentation by County Attorney John Nonna.

⁸ E. Ganga, *Westchester County's bond rating dropped by Moody's to Aa1*, LoHud, Nov. 20, 2013, <https://www.lohud.com/story/news/local/westchester/2013/11/20/westchesters-bond-rating-dropped-by-moodys-but-outlook-stable/3655797/>

has overestimated sales tax revenue, again largely due to lower than expected gasoline prices. The Committee believes the County should not make that mistake again this year. It would be more prudent to project sales tax revenues increasing by no more than 4%. More importantly, we understand that the 5% increase that the County has put in the budget is based on the State passing legislation to tax all internet sales. While there is a general belief that such legislation is likely to pass, there is no guarantee that it will. This is the sort of “uncertain sales tax revenue” that concerns the credit rating agencies when looking at the County’s financial management and overall financial strength.

Expenses

The Committee opposes deferring with interest \$4.3 million of the County’s \$81 million pension obligations through the New York State Pension Fund Stabilization Program at a rate of 2.84% in the 2018 budget and opposes deferring another \$5.7 million in 2019. These obligations are currently listed as contingency set aside, if necessary, as the payment is not due until much later in the fiscal year. This measure also defers current expenses and interest of \$4 million to future years. Borrowing for this item has consistently been cited by credit ratings agencies as a source of future concern, and was specifically cited as a factor in Standard & Poor’s revision of the County’s bond outlook to “Negative” last year.⁹ We recommend that these amounts be paid in 2019, or at least no later than 2020.

The Committee recommends that the County pay \$8.5 million in tax certiorari costs with current funds instead of borrowing to pay for them or, at the very least, we expect the County to figure out a way to pay this in full starting in the 2020 budget.

In the event many of the recommendations above are put in place, the Committee understands that the proposed tax levy increase may be greater than 2%. An increase of up to 3% may be reasonable under those circumstances. Under the current law, the County could raise the property tax levy for 2019 to a maximum of 5.7%¹⁰; this is unrealistically high, especially with the Federal Government imposing a \$10,000 limit (\$5,000 for married taxpayers filing separately on the deductibility of state and local taxes (SALT)). However, subject to checking the actual State cap limit for each particular year, we believe that raising it to approximately 3% is not unreasonable in order to give the County an opportunity to restore Fund Balance.

Personnel

The employees represented by all eight unions that collectively bargain with the County are all currently working under new contracts. These contract negotiations involved retroactive costs of approximately \$39 million accrued during the time the contract was expired as well as future costs, none of which were provided for in budgets in the prior years when the services were

⁹ M Lungariello, *S&P Revises Westchester Bond Outlook to “Negative”*, LoHud, Nov.29, 2017, <https://www.lohud.com/story/news/local/westchester/2017/11/29/westchester-bond-outlook-negative/906292001/>

¹⁰ Presentation by County Budget Director Larry Soule.

rendered, as would be normal budgeting practice. Consequently, the 2018 retroactive payments were charged to the County's unrestricted fund balance.

The Committee congratulates the current administration for filling some essential positions (as justifiable exception to the overall hiring freeze) that the previous administration cut or left vacant for most County departments. As was pointed out by the Committee in its 2017 report, this action allows the various departments to start doing the jobs for which they are responsible, particularly where entire operational segments (such as engineers responsible for safety on the County's bridges) had been left vacant.

Capital Budget

The Committee is pleased to see that capital projects are finally moving ahead with funding essentially level to that authorized in the prior year. We are further pleased that ground-ready projects are going forward. Other projects in the Capital Budget are being pushed back one year but will move ahead once the current projects are completed and the other projects are ground ready.

Sewer Districts

There are 13 sewer districts in Westchester. While administrative costs have been consolidated, capital costs have not. As a result, the New Rochelle sewer district has been hit with double digit increases while other districts have faced no or small increases. The 13 districts should be combined into one, with all participants sharing in the cost of capital projects and paying the same rates. This Committee has made this recommendation in the past.

Longer-Term Recommendations, Including for Budgets Beyond 2019

Over time the County should restore positions in the Public Works, Planning, Parks, and other Departments on a fiscally sound basis in order have reasonable service functionality restored to those departments.

Creating new streams of revenue, or increasing existing ones, are vital in order to lower the need for one-time transactions that have been used in the past. The proposed transfer of the parking lots to the L.D.C. is a current example. Many of our recommendations require legislative changes. We encourage the County to lobby our State legislative representatives to fight for these changes. Such future measures could include the following:

- Raising the County sales tax rate 1/2% - 1% percentage points, with a two-year sunset provision. As the County uses better budgeting procedures to stabilize its finances, these additional revenues may eventually help to restore depleted County reserve fund balances.
- Asking the State pay for the loss of property taxes for state park land. It has been reported that other counties get 100% back for losses in property taxes for state park land (e.g.,

Putnam County).¹¹ Last year, then State Senator George Latimer introduced a bill to rectify this but it did not pass. Our state representatives should reintroduce bills in both houses of the Legislature to fix this inequity.

- Asking the State to apportion to the County its share of the sales tax it collects from ride-share companies Uber and Lyft; currently the State keeps the entire sales tax revenue collected from this new industry. There is pending legislation to legalize marijuana sales and sports and expanded betting. The State should also apportion a share of sales tax revenue collected from these potential new industries.
- Advocating for New York State to assume the County's share of Medicaid costs, which is currently 40% of property taxes paid in Westchester. This is the largest portion of the County's Operating Budget. New York State is only state that requires its counties to pick up part of the cost of Medicaid. Westchester County has the highest percentage of costs borne by all the counties in the state outside of the N.Y.C. boroughs. If New York State were to adopt the national model, the cost savings would more than balance the County's Operating Budget and leave money available to increase the Fund Balance in 2019. Westchester would thus be in a stronger financial position, possibly leading to a reduction of County taxes in future years. The County should also request more mandate relief as promised years ago.

Curtail Practice of Deferring Costs and Use of Overly Optimistic Projections

The tax increase in the proposed budget is achieved by deferring known costs and overly optimistic projections – an approach that puts the County at risk of fiscal stress in the future – a point focused on by S&P in its “negative watch” announcement.¹² The Office of the State Comptroller's recent report on fiscal stress for counties and municipalities found Westchester County to be in “Moderate Fiscal Stress,” and the factors where Westchester needs to make improvement, included “Operating Deficit,” “Cash Ratio,” and “Cash as a % of Monthly Expenditures.” All are factors exacerbated by unreasonably lower revenue compared to what is permitted under the state tax cap, and past structural imbalances with revenue (a mismatch of revenues and expenses) that often lead to cash short-falls.

Additionally, as mentioned, such structural imbalance is frowned upon by Moody's and other rating companies. The County's unrestricted fund balance set aside for contingencies and other expenses is roughly \$69.2 million. The Fund balance is often used as a measure of the overall fiscal health of a municipality. When the Fund balance goes down significantly, the bond rating would likely drop, and increasing borrowing costs. This occurred recently and the County no longer has a AAA bond rating. Global Ratings just lowered its AAA rating to AA+ long term rating to the County's General obligation bonds. This type of budgeting is of the sort that led New York State to take away local control over New York City's financing planning by establishing

¹¹ D.M. Wilson, *State Pays Westchester No Taxes on 7,000 Acres*, LoHud – Oct. 30, 2016, <https://www.lohud.com/story/news/investigations/2016/10/30/new-yorks-land-taxation/91330960/>

¹² M Lungariello, *S&P Revises Westchester Bond Outlook to “Negative”*, LoHud, Nov.29, 2017

the New York State Financial Control Board to oversee the City's budgeting for more than a decade. Budget issues in Nassau County resulted in Nassau County being under the Nassau County Interim Finance Authority since June 2000. The General Fund has gone down from approximately \$180 million to \$69.2 million since 2011 due to over estimations of revenues. The County should take the Comptroller's warning about Westchester County's fund balance¹³ seriously, and the County should begin to take meaningful steps to address it in this budget. Those steps will prove elusive if the County relies on uncertain lease deals and borrowing rather than stable, predictable revenue sources.

CONCLUSION

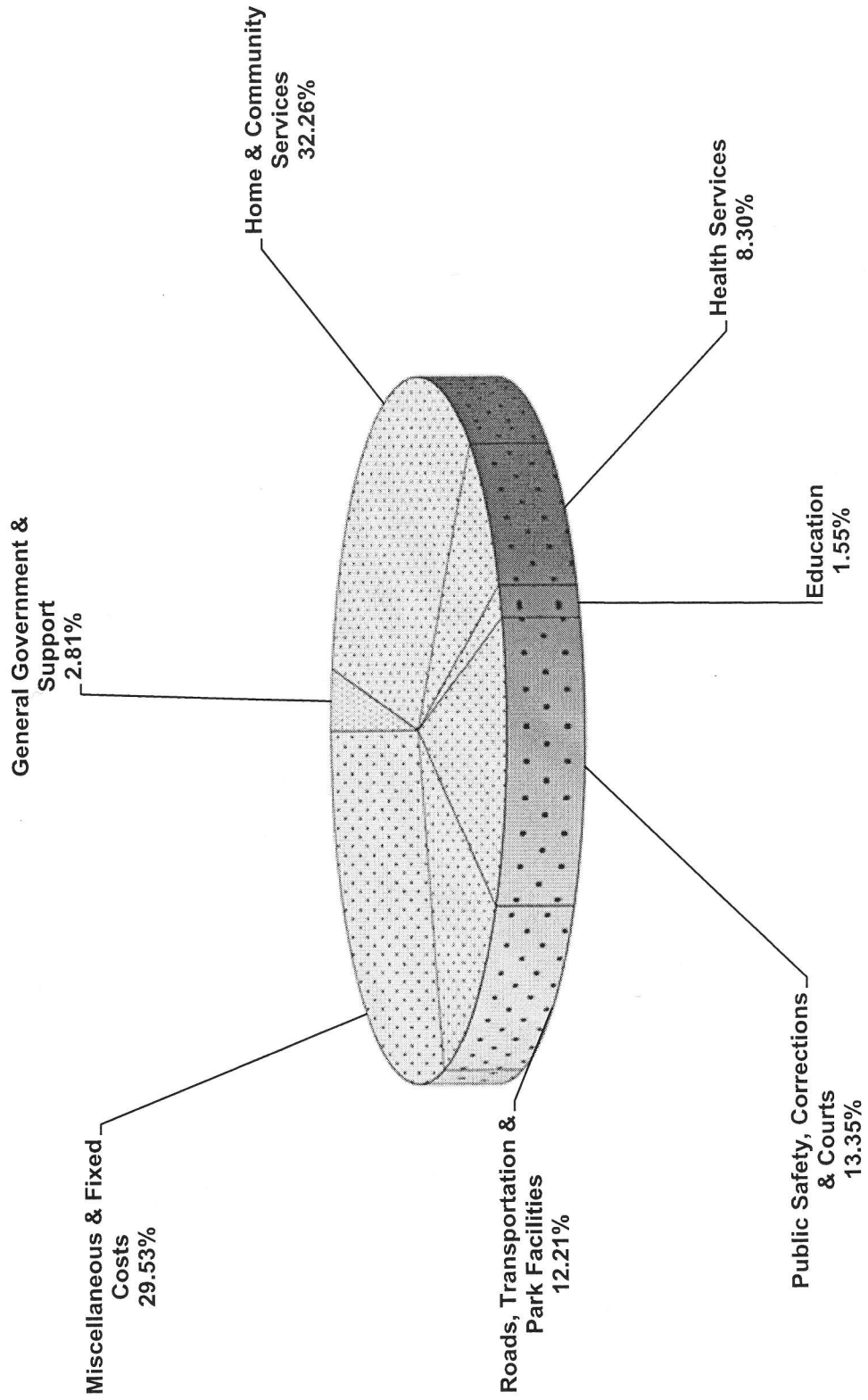
The Committee hereby concludes that the recommendations set forth in this Report be adopted.

Respectfully submitted by the following members of the County Fiscal Affairs Committee:

Mark Lewis, Chair
Madelaine Eppenstein
Tim Foley
Randy Guggenheimer
Anne Hintermeister
Jackie Irwin
Edward A. Morgan
Howard Nadel
Carlos Ramirez
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¹³ NYS Comptroller Press Release, September 25, 2018 available at <https://www.osc.state.ny.us/press/releases/sept18/092518.htm>.

Westchester County Budget - 2019 Expenditures



Westchester County Budget - 2019 Revenues

