

BAKER Hill ROAD DISTRICT

Prudential Committee

*William P. Prendergast, Chairman
John W. Goerlach
Henry (Hank) Sayers
Linda S. Pruyne, Treasurer*

2022 ANNUAL REPORT



Baker Hill Road District Prudential Committee FY 2022 Report

The Baker Hill Road District was created through a 1989 home-rule petition filed by the Town of Lanesborough. The Baker Hill Road District Prudential Committee, a three member appointed body, governs the Baker Hill Road District. The Town of Lanesborough appoints two members to the Committee, and the owners of property within the Baker Hill Road District have authority to appoint the other member. The District owns the US-7/SR-8 CONNECTOR ROAD (formerly Berkshire Mall Drive), and it and three property owners are encompassed by the District boundaries. Those property owners are taxed to cover any debt service and road maintenance required to keep the road open as a public way. Those property owners were DURGA Property Holdings, Inc, Unit 1; TARGET, Unit 2 of the Berkshire Mall Condominium (the Berkshire Mall), and BMG NEWCO, LLC. whose property is in tax title

William (Bill) Prendergast, Henry (Hank) Sayers and John Goerlach are the members of the Prudential Committee. Bill Prendergast was elected Chairman and Recording Agent.

The Prudential Committee meets on the 2nd Wednesday of each month at 12:00 noon. During the COVID Emergency it met remotely or in compliant setting at 20 Bridges Street, Lanesborough, MA.

There were no matters of note during this past year except the limitations imposed by the COVID Emergency

In FY 2021 the Prudential Committee raised and appropriated \$808,703.45. From those funds \$114,900.00 was paid to the Town of Lanesborough in accordance with a Road MAINTENANCE AGREEMENT for the ordinary and reasonable expenses of maintaining the Connector Road as a public way, the Committee allocated \$62,731.00 to its Stabilization Fund for future capital costs of resurfacing the travel surface of the road, and \$50,000.00 to the Town for a new fire truck.

In FY 2021 the Baker Hill Road District contributed \$240,109.00 to the Town of Lanesborough in accordance with its POLICE SERVICES AGREEMENT.

BAKER HILL ROAD DISTRICT

P.O. Box 380, Lanesborough, Massachusetts 01237

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

LANESBOROUGH

To the Constables of the Town of Lanesborough
Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby requested to notify the landowners of the Baker Hill Road District Annual Meeting that will be held by Zoom Online, June 18, 2020 01:00 PM Eastern Time (US and Canada) Register in advance for this meeting at

<https://us02web.zoom.us/j/81271746414?pwd=ZkZORk9kbGZkdz09>
you will receive a confirmation email containing information about joining the meeting. in said Lanesborough, on Thursday, June 18, 2020 at 1:00 p.m., then and there to act on the following Articles:

Article 1: To see if the Baker Hill Road District shall vote to raise and appropriate the sum of for the following budget for fiscal year 2021 or take other action thereon.

<u>Item</u>	<u>Description</u>	<u>Amount (\$)</u>
01	Road Maintenance & Repairs	114,900.00
02	Utilities	12,500.00
03	Police Services	240,740.00
04	Professional Fees	102,000.00
05	Services/Clerk/Treasurer	10,127.00
06	Prudential Committee Stipends	26,479.00
07	Director's Insurance	6,600.00
08	Liability Insurance	4,000.00
09	Treasurer Surety Bond Insurance	350.00
10	Workers Comp Insurance	300.00
11	Town Collector Fees	700.00
12	Annual Audit	3,500.00
13	Annual Report	100.00
14	Office Supplies & Legal Advertising	700.00
15	Meeting Expense	900.00
16	Reserve Account	20,144.00
17	FICA Matching	3,132.00
18	Secretarial and Recordkeeping	4,310.00
19	Payroll Processing	815.00
20	Public Safety Equipment	50,000.00
21	Design/Construction and Unusual Repairs	25,000.00
TOTAL BUDGET		627,315.00

Article 2: To see if the Baker Hill Road District shall vote to raise and appropriate, or transfer from free cash the sum of \$66,086.00 for the Stabilization Account.

Article 3: To see if the Baker Hill Road District shall vote to raise and appropriate the sum of \$14,000.00 for a Police Cruiser for the Town of Lanesborough (one-half of one-half payment shared with the Town per agreement).

Article 4: To see if the Baker Hill Road District shall vote encumber any allocated funds for the purpose for which they were appropriated.

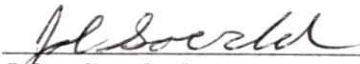
Article 5: To see if the Baker Hill Road District shall vote to raise and appropriate the sum of \$50,000.00 to be placed in Its Overlay Account.

Given under our hands and seal this 10th day of June, 2020.

Baker Hill Road District
Prudential Committee



William Prendergast, Chairman



John Goerlach



William Decelles

This is to certify that I have posted true and attested copies of the **ANNUAL DISTRICT MEETING BAKER HILL ROAD DISTRICT FISCAL YEAR 2021 WARRANT** within the Baker Hill District, and the Lanesborough Post Office and the Lanesborough Town Hall.

Posted: June , 2020

Police Officer: _____

Print Name and Rank: _____

BAKER HILL ROAD DISTRICT
Report of the Clerk/Treasurer
Fiscal Year 2021

The tax rate for the district was set at \$41.63, an increase of \$10.44 from last year's rate of \$31.19.

This increase in the rate is due to a decrease in the assessed value from \$25,280,400.00 to \$18,192,100.00 a decrease of \$7,088,300.00. The budget decreased from \$788,495.68 to \$757,337.12 a decrease of \$31,158.56.

The dramatic change in the assessed valuation is due to Durga Property's request for a revaluation of their parcels that are the Mall property. This resulted in a shift of the percentage of tax responsibility among the three Baker Hill Road District taxpayers. In FY20 The Mall (Durga) assessed value was \$16,615,700. in FY21 it was \$9,802,800. a reduction of \$6,812,900. The tax assessed in FY20 was \$518,244. (66% of the total) FY21 was \$408,090. (54%). In FY20 Target assessed value was \$8,160,600. In FY21 it was \$7,885,500, a reduction of \$275,100. The tax assessed in FY20 was \$254,529. (32% of the total) FY21 was \$328,273. (43%). In FY20 BMG assessed value was \$504,100. In FY21 it was \$503,800, a reduction of \$300. The tax assessed in FY20 was \$15,723. (2% of the total) FY21 was \$20,973. (3%).

The district's tax rate is determined by the budget requirements and the tax rate is set accordingly. Based on an assessed valuation of \$18,192,100.00 with a budget of \$757,337.12 the tax rate is calculated to be \$41.63.

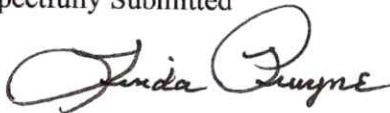
Notable for this fiscal year is transfer of \$66,086.00 to the stabilization fund.

Financial statements and annual audit reports are available upon request.

As always I would express my appreciation to the assessors' office and the town tax collector for their assistance in getting the tax recap approved and the tax bills issued and collected in a timely manner.

Thank you to the Prudential Committee for their assistance and guidance.

Respectfully Submitted



Linda S. Pruyne
District Clerk/Treasurer

Baker Hill Road District Budget vs Actual Expenses

Date Prepared:
BY: Linda Pruyne

9/3/2021

Tax Rate: 41.63

Baker Hill Road District BUDGET vs ACTUAL FOR FY 2021	Budget FY2021	Actual FY2021	Variance Actual Over (Under) Budget
ESTIMATED RECEIPTS			
Income From Tax Revenue	757,401.00	328,273.32	(429,127.68)
Late & Demand Fees		0.00	0.00
Total Estimated Receipts	757,401.00	328,273.32	(429,127.68)
Appropriate from Free Cash			0.00
Total Raised and Appropriated	757,401.00	328,273.32	-858,255.36
ADMINISTRATIVE & OPERATING EXPENSE			
Police Services	240,740.00	181,456.37	(59,283.63)
Professional Fees	102,000.00	95,879.47	(6,120.53)
Services/Clerk/Treasurer	10,127.00	10,127.00	0.00
Prudential Committee Stipends	26,497.00	22,497.50	(3,999.50)
Secretarial & Recordkeeper	4,310.00	4,310.00	0.00
Town Collector Fees	700.00	700.00	0.00
Payroll Processing	815.00	814.00	(1.00)
Treasurer's Bond	350.00	305.00	(45.00)
Director's Insurance	6,600.00	7,139.20	539.20
Liability Insurance	4,000.00	3,453.72	(546.28)
Workers Comp Insurance	300.00	364.00	64.00
Annual Audit	3,500.00	0.00	(3,500.00)
Annual Report	100.00	0.00	(100.00)
Office Sup; Bank Fees; Misc	700.00	293.04	(406.96)
Meeting Expense	900.00	201.28	(698.72)
Reserve Account	20,144.00	0.00	(20,144.00)
FICA Matching	3,132.00	2,825.48	(306.52)
Road Repairs & Maintenance	114,900.00	114,900.00	0.00
Utilities	12,500.00	11,075.55	(1,424.45)
Public Safety Equipment	50,000.00	50,000.00	0.00
Design/Construct & Unusual Repairs	25,000.00	56.58	(24,943.42)
Total OPERATING Budget	627,315.00	506,398.19	(120,916.81)
Debt Service		0.00	0.00
Stablization Fund Article 2	66,086.00	66,086.00	0.00
Overlay Funding Article 3	50,000.00	50,000.00	0.00
25% Police Crusier Article 4	14,000.00	0.00	(14,000.00)
TOTAL ADMINISTRATIVE & OPERATING	757,401.00	622,484.19	(134,916.81)
Bond & Loan Payments			0.00
Total Other Articles in Warrant	0.00	0.00	0.00
Total Appropriations	757,401.00	622,484.19	-134,916.81

BAKER HILL ROAD DISTRICT ANNUAL TREASURER'S REPORT

July 1, 2020 - June 30, 2021

Date: 05/16/2022

SubTotal

CASH BASIS RECEIPTS		
TAX REVENUE	328,273.32	
INTEREST ON INVESTMENTS INCOME	1,182.94	
<i>TOTAL INCOME</i>	329,456.26	329,456.26
EXPENDITURES		
SALARIES AND WAGES		
PRUDENTIAL COMMITTEE SALARIES	22,497.50	
DISTRICT SECRETARY SALARY	4,310.00	
TREASURER SALARY	10,127.00	
<i>TOTAL SALARIES & WAGES</i>		36,934.50
<i>PAYROLL BENEFITS</i>		
PAYROLL TAXES EMPLOYER MEDICARE MATCH	2,825.48	
<i>TOTAL PAYROLL BENEFITS</i>		2,825.48
OPERATING EXPENSES		
INSURANCE	11,261.92	
OFFICER EXPENSES	201.28	
OFFICE SUPPLIES & EQUIPMENT EXPENSE	293.04	
ADP PAYROLL PROCESSING FEES	814.00	
POLICE DEPARTMENT CONTRACT	181,456.37	
COMPUTER, INTERNET & WEB SITE FEES	1,166.52	
LEGAL FEES	94,600.00	
LEGAL EXPENSES	112.95	
OUTSIDE AUDIT FEES	0.00	
PUBLIC SAFETY EQUIPMENT EXPENSE	50,000.00	
ROAD MAINTENANCE CONTRACT EXPENSE	114,900.00	
ROAD REPAIRS AND MAINTENANCE EXPENSE	56.58	
COLLECTOR SERVICES TOWN HALL	700.00	
UTILITIES: STREET LIGHTS	11,075.55	
<i>TOTAL OPERATING EXPENSES</i>		466,638.21
CAPITAL OUTLAY		
INFRASTRUCTURE MAJOR UPGRADES	0.00	
EQUIPMENT	0.00	
<i>TOTAL INFRASTRUCTURE EXPENSES</i>		0.00
TOTAL OPERATING EXPENSES		506,398.19
PRINCIPAL PAYMENT ON DEBT	0.00	
INTEREST PAYMENT ON DEBT	0.00	
<i>TOTAL DEBT PAYMENT</i>		0.00
TOTAL EXPENDITURES		506,398.19
NET PROFIT (LOSS) CHANGE IN POSITION		-176,941.93
CASH BALANCE AS OF JUNE 30, 2021	210,157.33	
ACCOUNTS RECEIVABLE	530,871.03	
ACCOUNTS PAYABLE	849.06	
FREE CASH 07/01/2021	0.00	
RESERVE ACCOUNT		
Balance Reserve Account June 30, 2021	39,565.56	
OVERLAY & STABILIZATION FUND		
Balance Overlay & Stabilization Fund June 30, 2021:	851,419.36	



Linda Pruyne
District Treasurer

This is an unaudited report subject to change upon audit

lpruyme@verizon.net

From: recapdata@dor.state.ma.us
Sent: Friday, December 18, 2020 8:51 AM
To: town.accountant@lanesborough-ma.gov; town.collector@lanesborough-ma.gov; Prender1@verizon.net; rvivori@northadams-ma.gov; lpruyme@verizon.net; town.clerk@lanesborough-ma.gov; Bdecelles1361@aol.com; town.treasurer@lanesborough-ma.gov; assessor.clerk@lanesborough-ma.gov; town.assessor@lanesborough-ma.gov; swentworth@verizon.net; assistant.assessor@lanesborough-ma.gov; dlsgateway@dor.state.ma.us
Cc: andrem@dor.state.ma.us
Subject: Tax Rate Approval Notification - Baker Hill Road - 2021

Massachusetts Department of Revenue Division of Local Services

Geoffrey E. Snyder, Commissioner of Revenue
Sean R. Cronin, Senior Deputy Commissioner of Local Services

Baker Hill Road Assessors

Date: 12/18/2020

Dear Assessors:

The Fiscal Year 2021 tax rate has been certified by the Bureau of Accounts for Baker Hill Road.

The four pages of the Tax Rate Recapitulation form and the Levy Limit worksheet (not applicable to districts) are available on the Division of Local Services website:

[Tax Rate Recapitulation Form](#)

Page one of the Tax Rate Recapitulation form includes the Director of Accounts' electronic signature and the date of approval. This letter is your notification of approval pursuant to Massachusetts General Laws Chapter 59, section 23. Please forward copies of this notification to other officials as you deem appropriate.

We wish to thank you for your cooperation and assistance in the tax rate setting process.

Sincerely,



Mary Jane Handy
Director of Accounts
Massachusetts Department of Revenue

TAX RATE RECAPITULATION
Fiscal Year 2021

TAX RATE SUMMARY

Total amount to be raised (from page 2, lIe)	\$ 757,337.12
Total estimated receipts and other revenue sources (from page 2, lIe)	0.00
Tax Levy (Ia minus Ib)	\$ 757,337.12
Distribution of Tax Rates and levies	

CLASS	(b) Levy percentage (from LA5)	(c) Ic above times each percent in col (b)	(d) Valuation by class (from LA-5)	(e) Tax Rates (c) / (d) x 1000	(f) Levy by class (d) x (e) / 1000
Residential	0.0000	0.00	0.00	0.00	0.00
Port of Exempt					
Open Space	0.0000	0.00	0.00	0.00	0.00
Commercial	100.0000	757,337.12	18,192,100.00	41.63	757,337.12
Port of Exempt					
Industrial	0.0000	0.00	0.00	0.00	0.00
JBTOTAL	100.0000		18,192,100.00		757,337.12
Personal	0.0000	0.00	0.00	0.00	0.00
TOTAL	100.0000		18,192,100.00		757,337.12

MUST EQUAL 1C

Record of Assessors

Stephen Wentworth, Board Member, Baker Hill Road 413-442-8622 | 12/9/2020 1:17 PM

Comment:

Ross A. Vivori, Assessor, Baker Hill Road, rvivori@northadams-ma.gov 413-446-8069 | 12/9/2020 3:09 PM

Comment:

Do Not Write Below This Line --- For Department of Revenue Use Only

Reviewed By: Matthew Andre
 Date: 12/18/2020
 Approved: Deborah Wagner
 Director of Accounts: Mary Jane Handy

Mary Jane Handy

NOTE : The information was Approved on 12/18/2020

Baker Hill Road District Appropriations Receipts

Date Voted:

Date

Approved: 05/11/2022 Tax Rate Approval:

FINAL BUDGET CALCULATION FOR FY 2023 Tax Rate = 40.29	Request FY 2023
ESTIMATED RECEIPTS	
Income From Tax Revenue	779,607.47
Total Estimated Receipts	779,607.47
Free Cash Appropriation	0.00
Encumbered From FY 2022	0.00
Total Raised and Appropriated	779,607.47
ADMINISTRATIVE & OPERATING	
	2023
Police Services	247,178.00
Public Safety Equipment	50,000.00
Professional Legal Retainer Fees	30,000.00
Other Legal Fees	71,750.00
Other Professional Fees Web Site	3,800.00
Town Collector Fees	750.00
Services/Clerk/Treasurer	10,650.00
Prudential Committee Stipends	19,408.00
Secretarial & Recordkeeping	4,550.00
Payroll Processing	850.00
Directors Insurance	8,100.00
Liability Insurance	4,400.00
Treasurer Surety Bond Insurance	350.00
Workers Comp Insurance	450.00
Annual Audit	4,000.00
Annual Report	100.00
Office Supplies & Legal Advertising	926.47
Meeting Expense	0.00
Reserve Account	10,000.00
FICA Matching	2,648.00
Road Maintenance & Repairs	114,900.00
Utilities	14,400.00
Construction & Unusual Repairs	50,000.00
TOTAL ADMINISTRATIVE & OPERATING	649,210.47
Warrant Articles	
Article 2 Stablization Fund	65,397.00
Article 3 50% Police Crusier	15,000.00
Article 4 Overlay Fund	50,000.00
Amount to Raise and Appropriate	779,607.47

AMOUNT AVAILABLE TO ENCUMBER From FY2022 AS PER BUDGET AS OF March 2022

Encumber from Police Cruiser not yet purchased	0.00
Encumber from Unusual Road repairs for Bridge Repair	0.00
TOTAL TO ENCUMBER FOR FY22	0.00
TOTAL BUDGET	779,607.47
Less Encumbered Amount	0.00
SubTotal	779,607.47
Less Amount coming from Free Cash	0.00
Amount to Tax	779,607.47



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued March 24, 2022

Baker Hill Road District

For the period January 1, 2019 through December 31, 2020





Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

March 24, 2022

Mr. William Prendergast, Chair of the Prudential Committee
Baker Hill Road District
c/o Lanesborough Town Hall
83 N. Main Street
Lanesborough, MA 01237

Dear Mr. Prendergast:

I am pleased to provide this performance audit of the Baker Hill Road District. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2019 through December 31, 2020. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Baker Hill Road District for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump
Auditor of the Commonwealth

cc: Henry Sayers, Member of the Baker Hill Road District Prudential Committee
John Goerlach, Member of the Baker Hill Road District Prudential Committee
Linda Pruyne, Treasurer for the Baker Hill Road District
Mark Siegars, Attorney for the Baker Hill Road District
Lorna Gayle, Clerk for the Baker Hill Road District

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EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Baker Hill Road District (BHRD) for the period January 1, 2019 through December 31, 2020. In this performance audit, we reviewed BHRD's compliance with Chapter 41 of the Acts and Resolves of 1989—specifically Section 4, which requires BHRD to file an annual report of receipts and expenditures, and Section 6, which requires BHRD to prepare and approve an annual budget. In addition, we reviewed BHRD's expenditures on contracted services to ensure compliance with the agreed-upon terms.

Below is a summary of our finding and recommendation, with links to each page listed.

Finding 1 Page 5	BHRD did not file an annual report for 2019.
Recommendation Page 5	BHRD should file its report annually with the prudential committee.

OVERVIEW OF AUDITED ENTITY

The Baker Hill Road District (BHRD) was formed in 1989 in response to a home rule petition¹ filed by the Town of Lanesborough. BHRD's scope of authority was expanded by Chapter 47 of the Acts of 2018 to include engaging in economic development (e.g., developing, maintaining, or managing buildings or facilities). The district is overseen by a three-member prudential committee, which consists of two members appointed by the Town of Lanesborough and another member appointed by the owners of property in BHRD. The members serve for one, two, or three years. The committee has the power to appoint a treasurer for BHRD, who cannot be a sitting member of the prudential committee. The committee meets monthly, but it is only required to meet twice a year.

BHRD's purpose is to own, monitor, and maintain US-7/SR-8 Connector Road (formerly Berkshire Mall Drive), and BHRD has the autonomy to purchase goods and services to help maintain the road. Road maintenance, police details, and fire and emergency services are provided by the Town of Lanesborough, and the costs are reimbursed by BHRD. Revenue to pay for the district's operations is derived from taxes levied on the property owners in BHRD. During fiscal years 2019 and 2020, BHRD had total budgets of \$772,411 and \$788,519 respectively.

1. Cities and towns in Massachusetts can submit home rule petitions to the Legislature to request new regulations specific to themselves or to make changes to their charters. City or town residents must vote on such petitions before they are submitted to the Legislature.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Baker Hill Road District (BHRD) for the period January 1, 2019 through December 31, 2020.

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Does BHRD file its annual reports with its prudential committee, as required by Section 4 of Chapter 41 of the Acts and Resolves of 1989?	No; see Finding 1
2. Does the BHRD prudential committee prepare and approve an annual budget, as required by Section 6 of Chapter 41 of the Acts and Resolves of 1989?	Yes
3. Does BHRD pay for contracted services in accordance with agreed-upon terms and account for those expenditures in its annual budget?	Yes

To achieve our audit objectives, we gained an understanding of the internal controls that we determined to be relevant to the objectives by reviewing BHRD's mission statement, policies, and procedures, as well as conducting interviews with key personnel.

To determine whether BHRD complied with Section 4 of Chapter 41 of the Acts and Resolves of 1989, we collected and reviewed the district's annual reports from the audit period to ensure that they had been prepared. Additionally, we asked BHRD prudential committee members whether they had received and reviewed the 2019 and 2020 annual reports.

To determine whether BHRD complied with Section 6 of the Acts and Resolves of 1989, we inspected a copy of BHRD's budget for fiscal years 2019 and 2020 to verify that it had been created. Additionally, we determined whether the BHRD prudential committee had approved, and signed off on, the budget by reviewing the committee's meeting minutes.

To determine whether BHRD paid for expenses incurred, and complied with all its contracts, during the audit period, we obtained a list of all its expenditures for the audit period. From the data we obtained, we created a population of 106 contracted service transactions. From this population, we selected a nonstatistical, judgmental sample of 41 transactions based on the percentage of the total number of transactions that each type of contracted service represented. The sample consisted of 20 transactions for BHRD's attorney (this type of service represented 50.8% of the 106 transactions), 10 transactions for the Lanesborough Police Department (this type of service represented 23.6%); 10 transactions for the Lanesborough Department of Public Works, which is responsible for highways (this type of service represented 23.6%); and 1 transaction for the Lanesborough Volunteer Fire Department (this type of service represented 2.0%). To conduct our test of details, we reviewed BHRD's bank statements, invoices, and contracts to confirm that each amount paid complied with the agreement signed by BHRD and the contractor.

We used a nonstatistical sampling approach, and as a result, we could not project the results of our testing to the population.

Data Reliability Assessment

To determine the reliability of the data about BHRD expenses during the audit period, we interviewed management personnel who were responsible for the source data. Additionally, we tested for gaps and duplicates in the list of expenditures using Audit Command Language software. We sampled 20 invoices from the BHRD check register using Audit Command Language and traced them back to hardcopy invoices. Additionally, we judgmentally sampled 20 hardcopy invoices and traced them back to the BHRD check register. We determined that the information was sufficiently reliable for the purposes of this audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Baker Hill Road District did not file an annual report for 2019.

The Baker Hill Road District (BHRD) did not file its annual report for 2019. As a result, the prudential committee did not have the information necessary to adequately review and assess BHRD's activities.

Authoritative Guidance

According to Section 4 of Chapter 41 of the Acts and Resolves of 1989, BHRD's treasurer "shall annually render a true account of his receipts and disbursements and a report of his official acts to the prudential committee."

Reasons for Issue

BHRD's attorney and prudential committee members told us, in emails on May 18, 2021 and September 27, 2021 respectively, that they had overlooked preparing and submitting the 2019 annual report because of the 2019 coronavirus pandemic.

Recommendation

BHRD should file its report annually with the prudential committee.

Auditee's Response

With regard to the **2019 Annual Report, it has been approved and filed.**

This occurred November 10, 2021.

Auditor's Reply

Based on its response, BHRD is taking measures to address our concerns.

OTHER MATTERS

1. The Baker Hill Road District did not have a written contract with its attorney.

During our audit period, the Baker Hill Road District (BHRD) paid an attorney a total of \$199,119 for legal services without a written contract for the services. According to BHRD's attorney, BHRD had a verbal agreement for legal services with the attorney. In an email to us on May 26, 2021, the attorney stated,

I have an oral contract with the road district, that has two parts, a monthly retainer [\$2,500] and an hourly rate [\$200 an hour]. The monthly retainer covers maintenance issues, research and documentation of issues related to the environment, stormwater management, road construction/maintenance and compliance with the Traffic Control Agreement, safety issues and governance issues with purchasing, economic development, and financial standards. The hourly rate applies to pre-litigation matters, court appearances, including waiting time, travel to and from court, telephone conferences, telephone calls to and from the Client, office conferences, legal research, depositions, review of file materials and documents sent or received, drafting of pleadings, correspondence and memoranda, and preparation for trials, hearings and conferences, and development projects.

During our audit period, the payments totaled \$60,000 in retainers and \$139,119 for hourly services. During our audit, we reviewed invoices and identified the following examples of services provided to BHRD: correspondence and handling of legal proceedings, including traveling to and from court; correspondence with tenants of the Berkshire Mall in Lanesborough; and research related to grants and redevelopment of the Berkshire Mall property. Without a formal, written contract with a defined scope of services and duration, BHRD may incur unnecessary costs.

The "Consultant Contract Requirements" section of the Office of the Comptroller of the Commonwealth and Operational Services Division's joint policy "Procurement/Contracts: Commodities and Services" requires "a scope of services and duration of work . . . [and] a written contract" when executive branch agencies of state government contract for services such as legal services.

Although BHRD is not required to comply with this policy, the Office of the State Auditor (OSA) believes that it is a best practice that BHRD should follow. A formal, written contract ensures that all the terms and conditions, including the contract's duration and each party's duties and responsibilities, are documented.

On June 9, 2021, BHRD and the attorney entered into a written contract for legal services; however, OSA's review of the contract revealed that it did not establish a specific duration.

BHRD should enter into written contracts for all services it purchases, including legal services, that include the scope of services, work duration, and responsibilities of each party.

Auditee's Response

We will discuss adding a term to our contract for legal services.

Auditor's Reply

Based on its response, BHRD is taking measures to address our concerns.

2. BHRD did not ensure that its employees and prudential committee members completed conflict of interest training.

BHRD employees and prudential committee members did not take required conflict of interest training or acknowledge receipt of a summary of the conflict of interest law (Chapter 268A of the Massachusetts General Laws) annually. Specifically, two of six individuals involved with BHRD did not take the required conflict of interest law training during the period. In addition, three of the six individuals involved with BHRD did not sign the annual acknowledgment of receipt of the summary of the conflict of interest law for either year of our audit period.

Certain prudential committee members and employees also act in various positions for the Town of Lanesborough, with which BHRD contracts for certain services, including fire and ambulance, police, and road maintenance. OSA believes this training and annual acknowledgment are important for all state, county, and municipal employees. BHRD prudential committee members are considered employees for the purpose of the "Conflict of Interest Law Education and Training Guidelines" issued by the Massachusetts State Ethics Commission. The training and annual summary keep employees informed about what is allowed by state law and help ensure that they are aware of the ramifications of noncompliance.

The "Conflict of Interest Law Education and Training Guidelines" state,

Each year, every state, county, and municipal employee must be given a summary of the conflict of interest law . . . and, every two years, they must complete an online training program prepared by the [State Ethics] Commission.

BHRD officials told us that the clerk of the Town of Lanesborough usually sends employees and prudential committee members the conflict of interest law acknowledgment, as well as an annual notification that they need to complete the training, but did not always do so during the audit period. They stated that some training notifications were not sent because of difficulties encountered during the 2019 coronavirus pandemic and that acknowledgments were not sent because the town clerk thought they were only needed when a municipal employee was first elected, not every year thereafter.

OSA recommends that BHRD maintain conflict of interest law training certificates and annual acknowledgments to ensure that it complies with State Ethics Commission requirements.

Auditee's Response

The District will certainly pay closer attention to completing the ethics and open meeting law reporting requirements in a timely fashion. **We have put it in our annual calendar to be addressed during the first meeting of the fiscal year, July.**

Auditor's Reply

Based on its response, BHRD is taking measures to address our concerns.

3. BHRD did not competitively procure road maintenance services.

During our audit period, BHRD maintained an agreement with the Town of Lanesborough for road maintenance services. According to the "Agreement between the Town of Lanesborough and the Baker Hill Road District Road Maintenance Services," these services included the following:

- SNOW PLOWING AND DE-ICING OPERATIONS . . .
- STREET SWEEPING . . .
- GENERAL ROUTINE MAINTENANCE OF THE ROAD PROGRAM, INCLUDING POTHOLE REPAIRS, MINOR GUARDRAIL REPAIRS, REPLACING EXISTING SIGNS . . .
- CATCH BASIN PROGRAM
 - INSPECTION
 - CLEANING
 - REPAIRS . . .
- VEGETATION MAINTENANCE PROGRAM (INCLUDES MOWING, PRUNING, RESEEDING AND FERTILIZATION)
- TREE INSPECTION, MAINTENANCE AND TRIMMING PROGRAM

In addition, the agreement allows BHRD to procure additional services related to road maintenance from the Town. BHRD entered into this agreement, which had a three-year duration, in 2014. The agreement was extended, by mutual agreement between BHRD and the Town of Lanesborough, for five years in 2017. The cost in the 2014 contract was \$102,000 annually, but the cost can be adjusted annually by as much as 5% if BHRD and the Town of Lanesborough mutually agree to do so. During the audit period, BHRD paid the Town of Lanesborough \$104,318 and \$124,244 for road maintenance services for fiscal years 2019 and 2020, respectively.

Although BHRD was not required to competitively procure these services, OSA believes BHRD should ensure that all road maintenance services procured through this contract are the best value available.

BHRD has not attempted to procure road maintenance services from any other vendor since 2014. Although BHRD is required to comply with Chapter 30B of the General Laws, the specific services procured in 2014 were exempt. This was because Section 1 of Chapter 30B of the General Laws exempts snowplowing and contracts with political subdivisions (such as towns) from competitive procurement.

BHRD officials told us that, when attempting to procure these road maintenance services in 2014, they posted a request for response for the services publicly in order to control costs associated with the services. When conducting the competitive procurement, BHRD only received one other bidder, which ultimately decided to withdraw from consideration. Therefore, BHRD decided to use the Town of Lanesborough for road maintenance services.

OSA believes that to ensure that the contract has the best value, BHRD should post a request for response for road maintenance services.

Auditee's Response

We will solicit bids to see if we can achieve savings in our road maintenance budget.

Auditor's Reply

Based on its response, BHRD is taking measures to address our concerns.