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**TO:** Chuck Lesnick, City Council President  
All Council Members  
Dennis Monasebian, Chairman, South Broadway BID  
All South Broadway BID Directors  
Jose Velez, Executive Director

**CC:** Philip A. Amicone, Mayor  
Louis C. Kirven, Commissioner, Department of Planning and  
Development

**FROM:** Philip A. Zisman, Inspector General

**SUBJECT:** Report on South Broadway BID

**DATE:** August 15, 2008

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This report is issued in response to City Council Resolution No. 52-2008, which directed the Inspector General "to perform an operational and financial review of the South Broadway Business Improvement District, and report to the Council his findings and recommendations."

**Background**

The Yonkers South Broadway Business Improvement District ("BID") is a tax-exempt, non-profit organization created in 2001.<sup>1</sup> Its purpose is to enhance the economic viability of the South Broadway retail corridor, which extends approximately 1.25 miles from Vark Street/Park Hill Avenue in the North and

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<sup>1</sup> The BID is organized and operates under New York State General Municipal Law § 890. Pursuant to this law, the Yonkers City Council adopted Local Law No. 14-2001, which established the BID and authorized a special annual assessment on commercial properties within the BID to fund BID operations.

Caryl Avenue in the South. There are approximately 250 storefronts within the BID. The BID's office is located at 487 South Broadway.

According to its website, [www.southbroadwaybid.org](http://www.southbroadwaybid.org), the BID's core programs and services include:

- Daily Sidewalk and Curb Cleaning
- Neighborhood Beautification Efforts
- Marketing and Promotion
- Assistance to Small Business, and
- Safety and Security

In addition, the BID advocates for:

- Commercial Development
- Façade and Capital Improvements
- Small Business Loan Development, and
- Fair Share of Municipal Services

In fiscal year 2008, the BID had an annual operating budget of \$270,687 from revenue generated by an annual special assessment on commercial properties within the BID.<sup>2</sup>

As set forth in its bylaws, the BID is governed by a Board of Directors comprised of 17 members. A majority of the Board members are commercial property owners who are subject to the BID's special assessment. Other members include tenants of commercial space, a resident representative, a representative of the Mayor, City Council Member Sandy Annabi and the City's Finance Commissioner James LaPerche. In addition, City Council President Chuck Lesnick, Council Member Joan Gronowski and County Legislator Jose Alvarado have been invited to participate on the Board without voting rights. The Chairman of the Board of Directors is Dennis Monasebian, a property owner.

The BID's Executive Director is Jose Velez. In addition to Mr. Velez, the staff has generally included an office manager and one or two part-time administrative assistants and a part-time maintenance supervisor. The City of Yonkers has also assigned ten Rangers, who clean the sidewalks and curbs, to work under the BID's supervision.

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<sup>2</sup> The assessments are collected by the City and the monies are distributed to the BID once a year. (See City of Yonkers Local Law NO: 14-2001.) Properties subject to the special assessment are charged in accordance with the following schedule:

- 1) Business Properties -- .08 of Assessed Value
- 2) Single Use Buildings: Business Use Only -- .08 of Assessed Value
- 3) Apartment Buildings, which include Business -- \$1,095
- 4) Apartment Buildings, which are solely Residential -- \$1 a year.

In 2008, the highest special assessment on a single BID property was \$10,008.

In May of 2007, it was discovered that the former office manager Maria Maquilon had embezzled an estimated \$73,000 over a 19 month period. On June 4, 2008, the Westchester County District Attorney's Office indicted Ms. Maquilon on one felony count of grand larceny and 16 felony counts of falsifying business records. On June 25, 2008, Ms. Maquilon pleaded guilty to one felony count of grand larceny in the second degree. She will be sentenced in October.

In the wake of the embezzlement, the Yonkers City Council adopted Resolution No. 52-2008, which directed the Inspector General to conduct an operational and financial review of the BID to ensure that appropriate safeguards are in place to prevent future misappropriation of funds.

### **Objectives, Scope and Methodology**

The objectives of our operational and financial review were to:

- 1) Analyze BID operations and associated expenses.
- 2) Review the facts and circumstances that contributed to the fraud.
- 3) Review the new policies and procedures that have been put in place subsequent to the fraud.

Our operational review covered ongoing activities of the BID. We focused on the three primary areas of operations: 1) Cleaning and Beautification, 2) Safety and Security, and 3) Marketing, Promotion and Advocacy. We selected the Ranger program, the Lincoln Park comfort station/kiosk construction project, and the signage and façade improvement program as specific areas for review.

Our financial review covered two periods of time. We first reviewed payments made between July of 2005 and May of 2007, the period before the embezzlement was discovered. We wanted to confirm that salary and reimbursement payments, which were allegedly not part of the fraud, were proper. Second, in order to evaluate the new policies and procedures which were adopted after the embezzlement was discovered, we reviewed payments for the period of January 2 through April 7, 2008. As part of our financial review, we also analyzed the BID's current financial position and conducted a preliminary analysis of the special assessment.

We conducted interviews with the BID's Executive Director Jose Velez, independent BID accountant Barbara Brill, Board Chairman Dennis Monasebian and Board Member Wilson Soto. In addition, we reviewed the BID's website, annual reports from 2005 – 2008, financial reports from 2005 – 2007, minutes of the Board of Director from July 2005 to February 2008, the 2008 Operating Manual that contains the BID's policies and procedures, and the adopted budget for fiscal year 2009. For comparison, we also spoke with Steve Sansone, Executive Director and Barbara Carmichael, Treasurer, of the Yonkers

Downtown Waterfront BID. We walked the length of South Broadway to observe BID activity. We also spoke to the Westchester County Assistant District Attorney who prosecuted Ms. Maquilon, and reviewed records that the DA had secured from the BID. Finally, we surveyed City officials regarding the effectiveness of the BID's executive director in advocating for the BID and its members before City departments.

## **Summary of the Findings and Recommendations**

Because of the criminal acts of the BID's office manager, between September 2005 and April 2007, the BID suffered a substantial embezzlement of funds. Factors that made the BID vulnerable to this fraud included management's misplaced trust of the office manager; a lack of policies and procedures that established adequate internal controls over the BID's finances; and a lack of appropriate supervision and oversight of the office manager. As a result of the fraud, the BID has now amassed a significant debt which will likely have a negative impact on operations.

Our review of payments during the period of the fraud revealed that the embezzlement was greater than the \$73,000 originally estimated and most likely exceeded \$85,000. The embezzlement has raised questions about the operations of the BID under Executive Director Jose Velez's leadership.

Our assessment of the BID's operations and finances is decidedly mixed. As a general matter, we found that the BID's programs are effective, and have had a positive impact on conditions along the South Broadway corridor. However, the lack of proper fiscal management and financial controls created conditions which allowed the fraudulent activities to persist for 19 months and led to the BID's current indebtedness.

With respect to operations, we found that the BID is having a positive affect on the cleanliness and beautification of the district. The Ranger program which provides daily cleaning of the sidewalks and gutters is effective. The BID's signage and façade improvement program is a positive, although small, step in upgrading the appearance of select businesses within the BID. With respect to safety and security, the BID is actively working with the Yonkers Police Department and other City agencies to improve safety conditions. The addition of the Lincoln Park comfort station/kiosk which is currently nearing completion should also increase police presence around Lincoln Park. Although, we believe that the BID is weak in marketing and promoting South Broadway and its businesses, we believe that Mr. Velez has done a good job in representing the BID's interests to City government.

With respect to our financial review, we made findings as to the facts and circumstances that contributed to the fraud. Specifically, we found that:

- The office manager Maria Maquilon was a well known and trusted person in the South Broadway community. She had the trust and confidence of Executive Director Velez and members of the Board of Directors who knew her.
- Mr. Velez was hired because of his strength as a program director and advocate, and not because of his administrative or accounting skills. Mr. Velez allowed Ms. Maquilon to have control over the organization's finances, and did not review her work.
- Mr. Velez and some members of the Board of Directors had the misconception that the BID's external auditors and accountants provided adequate safeguards for the organization's funds.
- In 2005, in an effort to save money, Mr. Velez transferred the responsibility of reconciling the BID's bank account from the independent accountant Barbara Brill, who was paid \$70 per hour, to a part-time bookkeeper who was paid \$15 an hour. According to Mr. Velez, the bookkeeper proved unreliable, and after a short period of time her duties were transferred to Ms. Maquilon. According to Ms. Brill, she counseled Mr. Velez that this was not an appropriate accounting practice because of the lack of separation of duties.
- There was a lack of policies and procedures that established internal controls and separation of duties related to the BID's finances. Ms. Maquilon maintained all of the BID's financial books and records, served as the BID's bookkeeper, maintained the BID's checking account, and was also responsible for bank reconciliations. No one checked her work; and therefore, the ongoing fraud went undetected for a long period of time.

With respect to our review of payments from July 2005 through May 2007, the period before the fraud was detected; we confirmed that Mr. Velez received the salary that he was entitled to and was not overpaid. We could not, however, render an opinion as to the general appropriateness of approximately \$10,000 of the \$20,000 in reimbursements paid to Mr. Velez because the supporting documentation for many of the payments was not available. Although we do not believe, and there is no evidence to suggest, that Mr. Velez personally benefited from the fraud perpetrated by Ms. Maquilon, we cannot determine whether all the reimbursements that were made to him were proper. Also, we believe that most of the \$9,932 in reimbursements in the name of Edmund Shamoun were part of Ms. Maquilon's fraud.

With respect to payments made after the fraud was discovered and new policies and procedures were adopted, we found that vendor payments were properly supported and that the new payment procedures provide the necessary safeguards to ensure that only legitimate obligations of the BID are being processed. We still, however, were unable to determine whether one of the two reimbursements to Mr. Velez was proper because some of the supporting documentation for this claim was missing.

It is clear to us that the practice of the Executive Director repeatedly paying the BID's operating expenses with his own personal funds for which he is then reimbursed, is inappropriate and should be eliminated. The BID's Board of Directors should authorize the use of a credit card in the BID's name and adopt appropriate policies and procedures for the use of the card. The appropriate use of a BID credit card will minimize the need for future reimbursements.

In addition, we believe that in order to recover from the fraud and the general disorganization of its files and records, the BID should hire a skilled office manager who will create internal office systems; properly maintain the BID's files and records; and timely process appropriate payments.

Finally, we believe that the BID's Board of Directors should conduct a study of the annual special assessment which funds the BID to determine if any changes are appropriate. The Board should also adopt policies and procedures for the signage and façade improvement program.

## **Operational Review**

Our operational review focused on the three areas: 1) Cleaning and Beautification, 2) Safety and Security, and 3) Marketing, Promotion and Advocacy.

### Cleaning and Beautification

The BID's cleaning and beautification program includes ongoing activities such as: supervising the Rangers who clean the sidewalks and gutters, maintaining street planters and public trash cans; clearing snow from bus stops and crosswalk curbs; and overseeing the contract with Groundworks Inc. for the planting and watering of flowers. In addition, the BID undertakes special projects which have included the Rite Aid building mural; the mosaic covered street planters; and the Park Hill Theater marquee restoration. The BID also sponsors a signage and façade improvement program. We selected the Ranger program and the signage improvement program as specific areas for review.

### Ranger Program

Supervision of the Rangers is the BID's one ongoing daily activity. The City's Department of Public Works has assigned ten Rangers to clean the sidewalk and gutters along South Broadway on a daily basis. The Rangers, who wear uniforms with BID identification, work regular four-hour shifts up to 30 hours per week. The City pays the Rangers \$8 per hour without benefits. According to Mr. Velez, the BID supplements the Rangers' income by paying for vacations. The BID pays the Ranger supervisor an additional \$8 per hour for 35 hours every two weeks. In addition to overseeing the work of the Rangers, the Ranger

supervisor also serves as a general handyman for the BID and performs additional maintenance as required.

The Rangers use brooms and dustpans to sweep up litter that they deposit in rolling trashcans. Rangers empty the public trashcans by removing full plastic trashcan liners and replacing them with new liners. Full trash bags are picked up by the City's refuse collectors.

As part of our walking tour of the district, we saw Rangers performing their duties, and it was clear that their efforts were keeping the streets and gutters along South Broadway clean. South Broadway, where Rangers were working, was noticeably cleaner than surrounding streets which were not part of the BID.

The BID Directors, who are also property owners and pay the special assessment, that we spoke to were very pleased with the efforts of the Rangers, and stated that conditions along South Broadway have improved since the BID's creation.

Based upon our review, we believe that the Ranger Program is helping to keep sidewalks and gutters within the BID clean, and that the BID is providing the necessary support and supervision of the Rangers.

#### Signage and Facade Improvement Program

The signage and façade improvement program began in 2004, and was initially funded with a \$75,000 City Community Development Block Grant ("CDBG"). In the initial phase of the program, 17 commercial properties received new signs and/or canopies. In addition, the Park Hill Theater marquee was restored.

We were not provided with written policies and procedures for the program. In describing how the program was initially implemented, Mr. Velez stated that the BID generally entered into an agreement with the property owners to perform the work on his or her building; contracted with a vendor to create and install the new sign or canopy; and then requested that the storeowners, who benefited from the upgrade, pay between 20% and 50% of the costs for the improvements.

In addition to its own signage improvement program, in 2008, the BID assisted several property owners of large residential buildings across from Lincoln Park, to apply for \$165,000 in grants from the New York State Main Street program. If this grant is approved, the property owners would receive matching funds for substantial façade maintenance and improvement projects.

In our walk of South Broadway, we saw the new signs and canopies that were installed under this program. We also reviewed the payments that

comprised the \$75,000 in CDBG funding for these projects. All expenditures were documented and were consistent with the approved grant application. Although Mr. Velez originally said that property owners were expected to contribute between 20% and 50% of the improvement costs, we were not provided with records that indicated that these contributions were made. Mr. Velez told us that in the first phase of this program, storeowners only made nominal payments toward the cost of the improvements.

The BID has secured \$67,500 in additional CDBG funding for the signage and façade program. We reviewed one invoice in which a property owner was reimbursed for 50% of the costs for a sign that he had purchased and installed. According to Mr. Velez, all storeowners who participate in the program in the future will be required to contribute 50% of the cost of the improvements.

We recommend that the BID adopt written policies and procedures for this program, and specifically recommend that the BID enter into written agreements with the property and/or store owners who participate in the signage program to pay their proportionate share of the improvement costs before the work is performed.

As a general matter, we believe that the signage and façade program is a positive, although small, step in upgrading the appearance of select businesses within the BID.

### Safety and Security

According to Mr. Velez, the objective of the BID's security and safety program is to send a message that the BID is watching out for the safety of residents who visit and shop on South Broadway.

The BID's ongoing safety and security program currently consists of four security video cameras that monitor two locations within the BID that have high volumes of street traffic and a history of incidents requiring a police response. The video can be viewed in real time on computers in the BID's office and at the 3<sup>rd</sup> Precinct. Police officers can also review video recordings as part of their crime solving efforts. Executive Director Velez stated that it is the objective of the BID to install additional security cameras when funding becomes available.

In the past, the BID also sponsored a civilian patrol program in which two BID employees patrolled the streets during holiday periods. This program was discontinued because of budget constraints.

Mr. Velez and BID Board Members also stated that the BID promotes safety and security by serving as a conduit to the Yonkers Police Department. Mr. Velez is in regular contact with the 3<sup>rd</sup> Precinct regarding incidents or conditions that require Police attention.



Captain Frank Intervallo, 3<sup>rd</sup> Precinct Commander, praised the efforts of the BID and Executive Director Velez. He stated that the BID has worked with the YPD in its effort to improve traffic conditions and to keep prohibited tractor trailers off of South Broadway. He also said that the video surveillance tapes are sometimes monitored in real time, and are useful in solving crimes. He believes that the Lincoln Park kiosk will increase police presence and visibility in the area. Generally speaking, Captain Intervallo looked favorably on the BID's efforts to promote and improve safety.

Mr. Velez stated that the kiosk/comfort station presently under construction in Lincoln Park will provide increased security for the park and surrounding area. It is anticipated the structure will at times be staffed by police officers and possibly civilian patrols, and that video from the BID's security cameras will be available.

#### Lincoln Park Comfort Station/Kiosk

The BID is the original sponsor and promoter of the Lincoln Park comfort station/kiosk, which is currently under construction, and should be completed in the fall of 2008. The structure will provide restrooms, a small community meeting room, and an information kiosk. The Police Department will also be able to use the building as a mini-precinct.

The City has allocated \$212,729 in CDBG funding for this project. Additional funding includes a \$35,000 State grant, and approximately \$25,000 in BID operating funds to pay the architect to monitor the construction. Total costs are estimated at \$275,000. The City awarded the construction contracts through the competitive bidding process administered by the City's Purchasing Department and approved by the Board of Contract and Supply. The Engineering Department is managing the contract and supervising the construction. The City's Office of Community Development ("OCD") is administering the payment of CDBG funds for the construction.

According to Christopher Connor, the Engineering Department's project manager, the project is now on track, and it is anticipated that it will be completed on budget.<sup>3</sup> We reviewed all payments on the project through May 22, 2008, which indicated approximately 56% of the general contracting work was completed. We found the payments to be well documented and to contain the appropriate approvals.

Under the City's agreement with the BID, once the City Engineer approves a progress payment to the general contractor, the BID pays the contractor and

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<sup>3</sup> There were difficulties with the bidding process. Initially, the sealed bids came in over budget, and a final contract was not awarded until certain contract requirements were modified. There were three rounds of sealed bidding before the contract was finally awarded.

thereafter the City issues a reimbursement check to the BID for its payment to the contractor. Because of OCD's concerns about the financial stability of the BID (see the section of this report entitled BID's Financial Positions on page 13 herein), OCD has implemented a policy of requiring the contractor to sign an affidavit that affirms that the contractor received the approved progress payment from the BID. According to OCD, the affidavit is required to assure that the contractors are paid and that CDBG funds are not diverted for other BID purposes.

We note that the BID owes the architect, Lawless and Mangione, approximately \$15,000 for construction management work on the kiosk project. This obligation is not covered by the CDBG funding.

### Marketing, Promotion and Advocacy

As described on the BID's website, an important aspect of the BID's work is marketing, promotion and advocacy on behalf of the BID's membership. As set forth below, we found the BID to be weak in marketing and promotion, but strong and effective in advocating to the City on behalf of the district and its members.

#### Marketing and Promotion

We found the BID's marketing and promotional efforts to be rather limited. There was no promotional literature available that highlighted the resources and ongoing activities of the BID and its membership.<sup>4</sup> Although we found the BID's website to be attractive and easy to use, we also found that it has not been kept current, and that there is little useful information for BID members.<sup>5</sup>

Currently, the BID's largest annual events are the legislative breakfast and annual meeting. Both events give BID business owners the opportunity to speak with each other and with elected officials, as well as to hear presentations from the BID's Board Chairman and Executive Director on the BID's ongoing activities and accomplishments.

Mr. Velez is currently promoting the idea of the BID sponsoring a South Broadway street festival for 2009. This project is in the preliminary discussion phase.

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<sup>4</sup>According to Mr. Velez, the BID decided that its focus was not to engage in marketing through promotions. Instead, as part of a deliberate strategy, the BID has focused on its programs, which include sponsoring physical improvements within the district, working to create a perception of improved security, and providing cleaner streets.

<sup>5</sup>Although the schedule of events was updated during the course of our review, the last posted annual report was from 2005. The 2006 – 2008 annual reports were provided to us in hardcopy.

## Advocacy

We found the advocacy that Executive Director Velez conducts on behalf of the BID has been generally well received. In canvassing City commissioners who have worked with Mr. Velez, all agreed that Mr. Velez has been an effective advocate.

The Building Department stated that Mr. Velez has been very helpful in serving as a liaison between the Department and South Broadway merchants who apply for building permits. According to Deputy Commissioner William Schneider, many of the small business persons on South Broadway are recent immigrants who are unfamiliar with building code regulations and are sometimes ill-equipped to deal with the process of securing a permit. Mr. Velez and the BID regularly help these applicants understand the process and avoid time consuming mistakes. The BID has prepared a brochure, available in both English and Spanish that guides merchants through the building permit process.

Louis Kirven, the Commissioner of the City's Department of Planning and Development, stated that the advocacy of Mr. Velez played a role in the City's decision to commission a study of southwest Yonkers that encompasses the South Broadway corridor. Among other things, the study will evaluate possible zoning changes that the BID supports which would allow for higher density development. Mr. Kirven also stated that his Department, which administers the City's CDBG program, has a good working relationship with Mr. Velez.

The Department of Public Works stated that the Ranger program is well administered and that Mr. Velez does a good job reporting conditions within the BID that may need DPW attention. Similarly, the Office of Traffic Engineering and the Bureau of Enforcement informed us that Mr. Velez contacts them with matters that affect the BID. With respect to traffic issues, Mr. Velez has sought the assistance of the Traffic Engineering Department to help ameliorate the effects of large trucks on South Broadway. He also commissioned the Traffic Engineering's sign shop to manufacture and install the ornamental street signs along South Broadway.

## **Financial Review**

In our financial analysis we reviewed: the facts and circumstances contributing to the embezzlement; the BID's current financial position; payments before and after the discovery of the embezzlement; and the special assessment.

## Facts and Circumstances Contributing to the Embezzlement

In February 2007, the office manager Maria Maquilon resigned. Thereafter, because of questions regarding certain expenditures, the BID's independent accountant Barbara Brill analyzed financial records and determined

that it appeared that Ms. Maquilon had stolen an estimated \$73,000 in BID funds in a fraudulent check writing scheme that took place over 19 months from September 2005 through April 2007.<sup>6</sup> However, as indicated below in our review of payments, we believe that the amount stolen may have exceeded \$85,000. We found evidence of additional fraudulent payments that were listed as employee reimbursements which were not included in the original estimate of the fraud.

Based on our review we believe that the following facts and circumstances contributed to the theft:

- Ms. Maquilon was a well known and trusted person in the South Broadway community who had worked at the predecessor organization to the BID – the Southwest Yonkers Planning Association. She had the trust and confidence of the Executive Director Velez as well as members of the Board of Directors who knew her.
- Executive Director Velez was hired because of his strength as a program director and advocate, and not because of his administrative or accounting skills. Mr. Velez allowed Ms. Maquilon to have control over the organization's finances, and did not review her work.
- Mr. Velez and some members of the Board of Directors had the misconception that the BID's external auditors and accountants provided adequate safeguards for the organization's funds.<sup>7</sup>
- In 2005, in an effort to save money, Mr. Velez transferred the responsibility of reconciling the BID's bank account from the independent accountant Barbara Brill, who was paid \$70 per hour, to a part-time bookkeeper who was paid \$15 an hour. According to Mr. Velez, the bookkeeper proved unreliable, and after a short period of time her duties were transferred to Ms. Maquilon. According to Ms. Brill, she counseled Mr. Velez that this was not an appropriate accounting practice because of the lack of separation of duties.
- There was a lack of policies and procedures that established internal controls and separation of duties related to the BID's finances. Ms.

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<sup>6</sup> The fraudulent activity generally involved Ms. Maquilon first entering what appeared to be legitimate payments to vendors and BID staff into the BID's Quick Books computerized accounting system. Next, she printed checks made out to herself for the same amounts of the fraudulent entries. Finally, she was able to procure the required signatures on the fraudulent checks through forgery and deceit. There were more than one hundred fraudulent checks cashed with values ranging for \$100 to \$1,426. The checks that Ms. Maquilon cashed were inconsistent with the accounting records, but because she was solely responsible for conducting the bank reconciliations, the fraudulent payments were not discovered until questions were raised after the BID experienced significant cash flow problems. Ms. Brill's analysis served as the basis for the District Attorney's prosecution of Ms. Maquilon.

<sup>7</sup> The President of the Board of Directors informed us that there was a Board procedure under which the Board Treasurer was responsible for reviewing monthly bank statements. Neither the President nor Mr. Velez could confirm that these reviews took place during the period of the fraud.

Maquilon maintained all of the BID's financial books and records, served as the BID's bookkeeper, maintained the BID's checking account, and was also responsible for bank reconciliations. No one checked her work; and therefore, the ongoing fraud went undetected for a long period of time.

### Current Financial Position

For the fiscal year ending on June 30, 2008, accountant Brill estimates that the BID will end the year with a deficit of approximately \$12,000, and a total cumulative debt of approximately \$100,000.<sup>8</sup> The BID has drawn down \$96,300 of a \$100,000 line of credit that it has with Hudson Valley Bank.<sup>9</sup>

The debt, which is due in large part to the embezzlement, significantly impacts the BID's operations. In fiscal year 2008/09, in order to continue operations until the annual special assessment payment is made in September, the City has agreed to make an early partial payment of \$20,000, and a board member has agreed to loan the BID \$5,000.

In fiscal year 2008/09, the BID plans to implement a stringent budget which projects an operating surplus of approximately \$50,000.<sup>10</sup> According to Mr. Velez, \$35,000 of the surplus will be used to reduce the debt to \$65,000. The plan is to eliminate the debt in three years.

### Review of Payments

We conducted a review of BID payments from July 2005 – May 2007, the period before the embezzlement was discovered; and from January 2 – April 7, 2008, the post-embezzlement period after the BID adopted new policies and procedures to ensure that payments were appropriate and fully documented. We wanted to evaluate payment procedures both before and after the discovery of the embezzlement.

In reviewing payments during the embezzlement period, we recognize that the fraud – conducted over a 19 month period in what was essentially a two person office – has raised questions about the operations of the BID under Mr. Velez's leadership. During this period there were more than one hundred fraudulent payments which went undetected because of the absence of adequate internal controls and appropriate administrative oversight. Although Mr. Velez

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<sup>8</sup> The BID's books and records for fiscal year 2007/08 have not yet been closed and audited.

<sup>9</sup> Traditionally, the BID used a portion of the line of credit to cover expenses at the beginning of the fiscal year before the City remitted the annual special assessment monies. Once the payment from the City was received, the line of credit was repaid in full, and typically not utilized until the following year. In fiscal year 2007/08, however, because of the loss of funds from the fraud, the BID had to access the line of credit starting in the third quarter to continue operations.

<sup>10</sup> The BID anticipates \$261,400 in revenue from the special assessment with expenses of \$209,450. The special assessment revenue is down \$9,287 from the prior year. (See section on the special assessment on page 18.)

cooperated with the District Attorney in the investigation of the fraud and prosecution of Ms. Maquilon, and assured us that he did not benefit from the fraud which he attributed solely to Ms. Maquilon, we wanted to independently assess whether payments to Mr. Velez or other employees during this period were proper. Thus, we selected payroll payments to Mr. Velez and reimbursement payments to Mr. Velez and Edmund Shamoun, the Ranger supervisor for review.<sup>11</sup>

In reviewing post-embezzlement payments, we selected ten payments to vendors and employees. We wanted to verify that invoices and receipts supported the payments and that the payments were made in accordance with newly adopted payment procedures.

#### July 2005 – May 2007 Payments

##### Jose Velez Payroll Records

We reviewed the payroll records for Mr. Velez for the period of July 2005 through December 2007. We are satisfied that during this time, Mr. Velez was paid his correct salary of approximately \$80,000 per year. Ms. Brill confirmed our findings and stated that she conducted a reconciliation of the BID's payroll to the salary information reported on the IRS W-2 forms.

We note that because of the cash flow problems that the BID was having during this period, on several occasions Mr. Velez did not receive his regular bi-weekly paycheck. At a later date, when the BID had sufficient funds in the bank, he received paychecks for the salary that was owed to him.

##### Reimbursements to Jose Velez

We reviewed available records for reimbursements that Mr. Velez received from the BID for the period of July 2005 to May 2007. During this period Mr. Velez received 37 reimbursement payments for approximately \$20,000.<sup>12</sup>

The reimbursements to Mr. Velez covered payments that he made on behalf of the BID using his personal credit and debit cards, personal checks and cash. Examples of the types of payments that Mr. Velez made included vendor invoices, Yonkers Business Week expenses, Ranger supplies, computer equipment and other miscellaneous office expenses.

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<sup>11</sup> We specifically did not chose vendor payments during this period for our review, as these payments were previously reviewed by BID accountant Barbara Brill when the fraud was first discovered. Ms. Brill contacted the BID's vendors and was able to document with a reasonable degree of certainty and specificity the vendor payments that were illegally diverted to Ms. Maquilon.

<sup>12</sup> In addition, Ms. Maquilon issued five fraudulent checks for approximately \$4,000 to herself which she listed as reimbursements to Mr. Velez.

With respect to the records for the 17 payments to Mr. Velez for the period of July 5, 2005 through December 30, 2005, the BID could only provide supporting documentation for 4 of these payments. As a result, we could not audit the accuracy of the reimbursements for which the documentation was not available.<sup>13</sup> Of the 4 payments for which we had documentation, we found the payments to be appropriate.

Mr. Velez stated that the supporting documentation for these reimbursements was missing from the BID's files. He speculated that the records may have been misfiled, taken by Ms. Maquilon when she left, or still in the possession of the Westchester District Attorney's Office. He acknowledged that the BID's filing system was disorganized.

There were a total of 15 reimbursement payments for 2006. For one payment we received no supporting documentation; for two payments we received partial documentation. In our review of the documentation that we did receive for the 12 payments, we found one duplicate payment of \$300 and one overpayment of \$50.<sup>14</sup> We also note that on occasion the BID unnecessarily paid sales tax on certain items submitted for reimbursement; otherwise the reimbursements were supported by appropriate documentation.

There were 5 reimbursement payments from January 1, 2007 through May 2007. All of these payments were supported by appropriate documentation.

As a threshold matter, we believe that almost all of these expenses should not have been paid with personal funds, which were then reimbursed. The invoices should have been submitted directly to the BID for processing and payment. The practice of the BID's Executive Director personally paying for numerous BID operating expenses was unnecessary, and from an accounting standpoint, inappropriately commingled Mr. Velez's personal finances with the BID's finances. It also unnecessarily complicated the payment process for these goods and services.

In comparison, Steve Sansone, the Executive Director of the Yonkers Downtown Waterfront BID, told us that he does not use personal funds to pay Downtown Waterfront BID expenses. The BID has a credit card, and monthly payments must be reviewed and approved by the board of director's treasurer.

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<sup>13</sup> For the missing reimbursements we received a printout from the BID's accounting system which indicated that the payments were made. However, we were not provided with copies of check requests with appropriate approvals; paid receipts and invoices; or the BID checks for reimbursements of approximately \$10,000.

<sup>14</sup> Mr. Velez received two \$300 reimbursements for translation services rendered by ISpeak.Net on July 13, 2006. He also received reimbursement for a \$50 security deposit for rental equipment that was later reversed on his credit card. Mr. Velez agreed that these reimbursements were made in error.

It is clear that the South Broadway BID also needs to have a credit card in its own name to facilitate the appropriate payment of legitimate BID expenditures. A credit card's monthly statements are easily reviewed and require only one monthly payment. The BID's Board of Directors should adopt appropriate policies and procedures for the use of a credit card that minimizes the need for personal reimbursements.

With respect to our review of the reimbursements to Mr. Velez, because of the incomplete documentation, we cannot render an opinion regarding whether the reimbursements were appropriate. For the records that we were able to review, however, we believe that the reimbursements were generally proper. We can also say that Mr. Velez cooperated with our efforts to review the reimbursements, and that he tried to recreate the missing documents from his own personal records.

#### Reimbursement to Edmund Shamoun

For the period of August 3, 2005 through February 2, 2007, there were 30 reimbursement payments totaling \$9,932 to Edmund Shamoun, the Ranger supervisor. Upon review of the supporting documentation that we received from the BID and the Westchester District Attorney's Office, we believe that 24 of the payments were part of the fraud perpetrated by Ms. Maquilon.

The documents that allegedly supported the payments did not include original receipts or invoices, the check request documentation appeared to be forgeries, and the checks were made payable to Ms. Maquilon or to cash. We reviewed these payments with Mr. Velez who confirmed to our satisfaction that the payments were improper. We believe that Mr. Velez played no role in approving the fraudulent reimbursements in Mr. Shamoun's name. We discussed our suspicions about these reimbursements with the Assistant District Attorney who also believed they were most likely part of the fraud. Because of the evidence of fraud that we found in the reimbursements under Mr. Shamoun's name and certain other reimbursements to Mr. Velez, we believe that the actual extent of the fraud was not \$73,000, but at least \$85,000.

#### January – April 2008 Payments

In February 2008, the BID Board of Directors adopted an Operating Manual which set forth the BID's administrative policies and procedures and the rights and obligations of employees. The Operating Manual also established "Fiscal Accounting Policies and Practices", which are aimed at providing internal controls necessary to ensure the accuracy and integrity of the BID's expenditures and to minimize the opportunities for fraud.



Specific controls that are now in place include:

- A requirement that all BID checks have two signatures.
- Checks cannot be made payable to the signer of a BID check.
- The independent accountant Barbara Brill is now performing monthly bank account reconciliations.
- The Board Treasurer, who is not authorized to sign checks, physically reviews each BID check to ensure that all payments are for a proper BID purpose.
- The Treasurer is required to issue quarterly reports which provide details on expenditures.
- A procurement policy requires the solicitation of competitive quotes before purchases are made.
- Service contracts that exceed \$3,000 must be approved by the BID Board of Director's Executive Committee.<sup>15</sup>

We selected ten payments from the post-embezzlement period for review.<sup>16</sup> Mr. Velez was able to provide the supporting documentation for nine of the payments, but could not find all of the documentation for a February 6, 2008 reimbursement of \$573.83 to himself.

Our review of the nine payments showed that the BID is now implementing its new policies and procedures. Payments were supported with invoices and receipts, and a member of the BID's Board of Directors' executive committee signed off on the payments before two authorized members of the Board signed the checks. We are generally satisfied that vendor payments are now properly documented and that there are adequate internal controls to ensure that only legitimate obligations of the BID are being processed.

<sup>15</sup> In addition the BID has purchased an employment bond to insure against employee dishonesty, and background checks are required of administrative staff.

<sup>16</sup> The payments we reviewed were the following:

Date	Payee	Amount
01/02/08	Public Storage	\$158.00
01/02/08	Jose Velez	\$397.68
02/06/08	Pitney Bowes	\$645.27
02/06/08	Jose Velez	\$573.83
02/25/08	Staples	\$717.00
02/25/08	Staples	\$290.24
03/17/08	Lawless & Mangione	\$10,799.70
04/07/08	Charles Spitzer	\$1,297.50
03/11/08	American Transit	\$646.75
04/07/08	F&D Packaging	\$1219.00

Still, we did have questions regarding the two reimbursements to Mr. Velez that we reviewed. Because supporting documentation for one of the two reimbursements was not produced, we cannot state that the current reimbursement process is proper. This supports our opinion that the BID's Board of Directors should adopt a policy that minimizes reimbursements and authorizes the use of a credit card.

In addition, we noticed that on three of the payments the BID was subject to finance charges and late fees. We believe that the BID should better manage its accounts payable to avoid these charges.

Finally, we believe that in order to recover from the fraud and the general disorganization of the files and records, the BID should hire a skilled office manager who will create internal office systems; properly maintain the BID's files and records; and timely process appropriate payments.

### Special Assessment

We reviewed the implementation of the special assessment to ensure compliance with the provisions set forth in the local law authorizing the BID. (See footnote 2 herein.) We reviewed a Finance Department's schedule of assessments that the City charged properties subject to the BID's special assessment. In 2007/08, the assessments totaled \$270,687. We found that the amounts charged to the property owners were consistent with the local law.

In our discussions with Mr. Velez, he raised a fairness question regarding the application of the special assessment. Residential buildings which also have commercial space are assessed at a flat rate of \$1,095. We note that one apartment building that had eleven separate store fronts was charged only \$1,095. In comparison, smaller apartment buildings with only one or two stores are assessed at the same \$1,095 level. The assessment provisions do not take into account the number of stores that are part of a residential building.

We also note that the formulas for determining the special assessment of the South Broadway BID and the Downtown Waterfront BID are different. The special assessment on the Downtown Waterfront BID properties is a percentage of a property's annual tax bill. This is different from the South Broadway BID assessments which are either a flat fee of \$1,095 or 8% of the assessed valuation. Moreover, because of successful challenges to assessed values in the BID, the BID's special assessment has been decreasing.<sup>17</sup> However, during the same period of time, the Downtown Waterfront BID's special assessments have increased because the City raised property taxes.<sup>18</sup>

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<sup>17</sup> In 2007/08 the special assessment was \$270,687; in 2008/09 the assessment is projected to be \$261,400.

<sup>18</sup> In 2007/08 the Downtown Waterfront BID's special assessment was \$216,806; in 2008/2009 the assessment is projected to be \$249,925.

A further review of the BID's special assessment is beyond the scope of our review. However, given the questions raised by our cursory analysis, we believe that it would be appropriate for the BID's Board of Directors to study the provisions of the special assessment now in place to determine if the Board wants to recommend modifications. Any change to the special assessment formula would need to be approved by the City Council before it could become effective.

## **Conclusions and Recommendations**

Our assessment of the BID's operations and finances is decidedly mixed. As a general matter, we found that the BID's programs are effective, and have had a positive impact on conditions along the South Broadway corridor. However, the lack of proper fiscal management and financial controls created conditions which allowed the fraudulent activities to persist for 19 months and led to the BID's current indebtedness.

We make the following specific recommendations:

- The BID's Board of Directors should adopt written policies and procedures for the signage and façade program, which should include a requirement that property owners and/or storeowners who benefit from the program enter into a written agreement to pay 50% of the associated costs.
- In order to minimize the need for employee reimbursements, the Board should authorize the use of a BID credit card, and adopt appropriate policies and procedures for the use of the card.
- In order to recover from the fraud and the general disorganization of the BID's files and records, the BID should hire a skilled office manager who will create internal office systems: properly maintain files and records: and timely process appropriate payments.
- The Board should study the provisions of the special assessment to determine if changes are appropriate.