

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Dennis M. Davin, in his capacity as  
Secretary of the Department of  
Community and Economic  
Development

Petitioner,

v.

City of Chester

Respondent.

No. 336 MD 2020

**Receiver for the City of Chester Status Update**

Pursuant to the Court's October 19, 2020 Memorandum and Order (the "Order"), the Receiver for the City of Chester (the "Receiver") files this Status Update and provides a copy of a presentation that the Receiver will be sharing with the public and interested stakeholders. The Receiver plans to share this information with stakeholders and the public as soon as November 9, 2020. The Receiver further respectfully requests a status conference with the Court at the Court's earliest convenience this week to provide more detailed information on the City of Chester's ("Chester" or the "City") dire financial and operational condition.

In the Order, the Court directed the Receiver to file a detailed status report within 45 days unless he previously submitted a modified plan. The Receiver requests this preliminary status conference to provide the Court with an

assessment of the City's condition which has been updated since the September 8, 2020 hearing and provide the Court with the Receiver's preliminary recommended path forward. That path is based on the more detailed assessment of the City since the September hearing, which has revealed that the City is in a significantly weaker condition.

The Receiver's assessment is based on more detailed information provided by the City and his team's experience "on the ground" in Chester. That information reveals that the City cannot adequately provide critical services that protect the health, safety and welfare of its residents:

- To date, Chester has experienced 33 murders, which is significantly more than the 18 experienced in each of the previous two years. This is a murder rate of approximately 1 out every 1,000 people and almost 4 times Philadelphia's rate this year.
- Earlier this year, the City furloughed approximately 1/3 of its workforce due to the lack of funds. If a snowstorm occurred, the City could not adequately plow streets as it only has 2 full-time and 6 part-time employees in its streets department. The 6 part-time employees only work 19 hours per week, 6 on Mondays and Wednesdays and 7 on Fridays. On Tuesdays and Thursdays, only 2 employees staff the department. For a 3 to 6-inch snowfall, the streets department would typically staff 16 to 20 employees.
- The police pension fund is projected to fully run out of money by the beginning of the second quarter of 2021. The City cannot afford to pay its retiree health care and pension costs. By January 1, 2021, the City will owe approximately \$44.6 million in past due payments to its pension funds. The City's annual general fund budget is approximately \$50 million.
- Annual pension and retiree health care costs, if actually paid, would consume 1 out of every 3 general fund dollars. The police pension fund pays

out more annually in pensions than the City payroll for active police officers. The City is effectively paying for two police departments – the current one and the one that previously provided services.

- The City spends more on extremely generous retiree health care than it does for active employee health care. Retirees have a very rich health care plan that includes \$1 retail prescription co-pays.

From a practical perspective, in 2021 it will be extremely difficult for the City, left to its own limited resources, to pay for pension and retiree health care costs and provide an adequate level of vital and necessary services. This does not even factor in the City's vital need for reinvestment in all aspects of government, including public safety, public works, administration and operation. Based on the Receiver's current updated assessment, even with substantially reduced staffing in non-public safety related areas, we still project an approximately \$5 million deficit for the 2021. In order to address these issues, the Receiver is beginning to implement the following strategy, which encompasses the "Three R's":

1. Reduce Retiree Health Care and Pension Costs:

The City has approximately 150 retirees and spouses who are old enough to qualify for Medicare but remain on the City's health care plans. These retirees are contractually required to switch to the Medicare Supplemental Plan; however, they must sign up for Medicare first and are not doing so. The Medicare Supplemental Plan provides an equal to or better than level of benefits that retirees are currently receiving, but at approximately half the cost to the City. Many retirees, however,



have either not signed up for Medicare or will have to pay for Part B and possibly Part A premiums since they did not contribute to Social Security when employed. For those who have not signed up, there may be a monetary penalty.

The Receiver's team is currently working to move retirees to the Medicare Supplemental Plan; however, it is possible that due to the City's dire financial condition, it will not even be able to afford that plan. The City sent out letters in January 2020 to retirees requesting that they sign up for the Medicare Supplemental Plan. Very few retirees did so. Another letter was sent out on Oct. 29<sup>th</sup>. Receiver's team is developing a virtual presentation to retirees explaining City's situation.

## 2. Restructure Operations:

Under the current form of government, each Council member serves as a department head. There is no single individual, such as a city manager, in charge of City operations. This arrangement does not meet Chester's needs. The Receiver will be creating a Chief Operating Officer position who will be responsible for overseeing and coordinating City operations.

The Receiver will also be reorganizing City Departments to reduce costs and create efficiency. The Receiver is working to reorganize the City's Police Department hierarchy to reduce costs and working on ways to hire and retain new officers. However, the immediate need is to address the current crime and murder



rate by seeking help from the Commonwealth the City's solves is dire budget woes. Due to police understaffing, the Receiver has requested a meeting with the Pennsylvania State Police (PSP) to discuss bringing them in to help. The Mayor is supportive of this request.

The Receiver faces similar challenges with the City's Public Works Department. In April, the City laid off 1/3 of its work force and effectively switched to part-time public works and code enforcement activities out of financial necessity. A part-time public works department is not sustainable through the winter. Easton, a similarly sized Third Class city employs approximately 40 full-time individuals in these functional areas. The City, however, cannot even afford a small public works department of 20 full-time employees. Under the current structure, both the streets department and the parks department have laborers, equipment operators and drivers who perform similar functions. The Receiver is seeking to reorganize the department to create economies of scale, and despite the City's financial issues, the Receiver will be authorizing several public works employees to return to work full-time in November.

### 3. Reinvest in City Services:

Chester desperately needs to reinvest in its internal operations (including the ability to fund restructured retiree obligations) and in the services that it provides to the public. Reinvestment will be vital to the City and key to its recovery.

Reinvestment, however, requires a significant initial outlay of money followed by predictable, on-going support tailored to the City's needs. Currently, the City does not possess such financial resources.

The Receiver's initial plan forward envisions these resources coming from both freed-up money from restructuring retiree obligations, and external sources. Monetizing the Chester Water Authority (the "CWA") is a key component of Chester's path forward and permanent recovery because it would bring a significant amount of money into the City. This could be accomplished either by selling the assets to a private corporation or through a transaction that would keep them in public hands. Regardless of the form the monetization of the CWA takes, the Receiver has determined that it is a vital and indispensable centerpiece to Chester's recovery. The City requires the right to take back the Authority to achieve this grand bargain and its path to recovery.

The Receiver's team is conducting its own independent assessment of a potential sale or other monetization of the CWA using experts from Public Financial Management who regularly perform these assessments. When the assessment is complete, the Receiver will make it public. The potential value of the system is very significant, and like the Grand Bargain in the Detroit bankruptcy, the Receiver envisions the monetization of the CWA as a necessary part of the City's path forward.

The City also very recently provided the Receiver with analysis from a consultant that was working with the City and the CWA on a possible public-private monetization in 2018, prior to the RFP process. That analysis appears to show that, at least as of 2019, City ratepayers annually pay CWA approximately \$10.0M in fees, but that CWA operating expenses are only \$3.5M for those same ratepayers, a difference of \$6.5M per year. \$6.5 million per year over a 40-year period would generate \$260M.

The City has attached a presentation of its initial path forward which it plans to make to the public and stakeholders next week. The Receiver further respectfully requests this Court to conduct a status conference with the Receiver this week, if possible.

Dated: November 3, 2020

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## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **Receiver for the City of Chester Status Update** has been sent to all other parties at the address(es) below first class United States Mail, postage prepaid, this 3<sup>rd</sup> day of November, 2020.

Kevin Dooley Kent, Esquire  
Conrad O'Brien, P.C.  
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1500 Market Street, Suite 3900  
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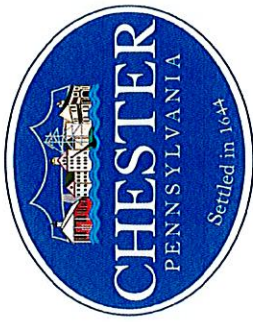
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# Receiver's Assessment of City of Chester's Financial and Operational Condition

November 3, 2020



# Executive Summary

## *Overall Assessment*



- Since the Receiver's team began work as a group in early August, we have more fully assessed Chester's situation and determined that the City's position, as a service provider and financial entity, is significantly weaker than previously described.
- However, we do see a path forward for keeping the City viable, but it will require the following "Three Rs":
  - Reduce retiree health care and pension costs
  - Restructure City operations
  - Reinvest in City services
- A "grand bargain" would involve reducing retiree health care and pension costs to a manageable level and monetizing the Chester Water Authority ("CWA" or "Authority") to provide a significant initial outlay of money followed by predictable, on-going support tailored to the City's needs. Regardless of the form it takes, the Receiver has determined that monetizing the CWA is a vital and indispensable centerpiece to Chester's recovery. The City requires the right to take back the Authority to achieve this grand bargain.

# Executive Summary

## *Operations*



- Functionally and financially, the City cannot adequately provide critical services that protect the health, safety and welfare of its residents.
- To date, Chester has experienced 33 murders, which is significantly more than the 18 experienced in each of the previous two years. This is a murder rate of approximately 1 out every 1,000 people and almost 4 times Philadelphia's rate this year.
  - Due to police understaffing, it is not unusual to have an inadequate number of officers on patrol. The Receiver has requested a meeting with the State Police to discuss bringing them in to help.
  - The Mayor is supportive of State Police assistance.
- Earlier this year, the City furloughed approximately 1/3 of its workforce.
- If a snowstorm occurred, the City could not adequately plow streets as it only has 2 full-time and 6 part-time employees in its streets department. The 6 part-time employees only work 19 hours per week – 6 on Mondays and Wednesdays and 7 on Fridays. On Tuesdays and Thursdays, only 2 employees staff the department. For a 3 to 6-inch snowfall, the streets department would typically staff 16 to 20 employees.



# Executive Summary

## *Retirement Costs*



- The City cannot afford to pay its retiree health care and pension costs.
- By January 1, 2021, the City will owe approximately \$44.6 million in past-due payments to its pension funds. The City's annual general fund budget is approximately \$50 million.
- The police pension fund is projected to fully run out of money by the beginning of the second quarter of 2021.
  - Due to pension benefits that are much more generous than Third-Class City Code provisions, some police officers in the last 15 years have been able to spike pensions and retire on questionable disability claims that allowed pensions of 100% of W-2 salary. Two officers in their 40s entered DROP this year with \$100,000+ pensions.
- Annual pension and retiree health care costs, if actually paid, would consume 1 out of every 3 general fund dollars.
- The police pension fund pays out more annually in pensions than the City payroll for active police officers. The City is effectively paying for two police departments – the current one and the one that previously provided services.
- The City spends more on retiree health care than it does for active employee health care.
  - Retirees have a very rich health care plan that includes \$1 retail prescription co-pays.



# Executive Summary

## *Retirement Costs (continued)*



Summary of Benefits for Retiree Health Care  
Plan with Most Police Retirees in It\*

Benefit	Cost to Employee (In-Network)
Employee Premium Contribution	None
Deductible (Individual/Family)	\$0/\$0
Primary Care Visit	\$5 co-pay
Specialist Visit	\$5 co-pay
Inpatient Hospitalization	\$0 (100% covered by plan)
Outpatient Hospitalization	\$0 (100% covered by plan)
Retail Prescription	\$1 generic; \$3 brand & non-formulary
Mail Order Prescription	\$1 generic; \$3 brand & non-formulary

# Executive Summary

## 2021 Budget



- We preliminarily project a \$5 million budget deficit (approximately 10% of general fund revenues) for 2021. This number will fluctuate as we consider options to close the gap.
  - At the time the Receiver submitted the initial Recovery Plan, the projected 2021 budget deficit was \$3.7 million.
- In addition to the pension and retiree health care expenses discussed previously, we continue to find additional expenditure liabilities not reflected in the cash flow projection initially provided to us.
- The City improperly assessed a distressed pension EIT that taxed commuters at a higher rate than residents which is not permitted under Pennsylvania law.
  - Consequently, to comply with Pennsylvania law, the City must significantly raise EIT taxes in 2021 on the same residents who are experiencing poor levels of City services and who are responsible for paying for legacy costs.



# Can Chester Even Get Through Next Year?



- At the beginning of our engagement, based on initial projections provided to us, we thought that there was a reasonable opportunity for the City to scrape through 2021 through a combination of tax increases, bond refinancing, and expenditure cuts as it continued to litigate the water authority matter.
- However, based on our current projections, even with substantially reduced staffing in non-public safety related areas, we still project an approximately \$5 million deficit for next year's budget. This number will fluctuate as we consider various options.
- While we are in the process of determining how to close that gap to comply with the law, we have difficulty seeing how practically the City can, by itself, both pay for pension and retiree health care costs and provide an adequate level of vital and necessary services which are in desperate need of reinvestment.



# Path Forward



- There is a path forward. However, for Chester to be able to provide even a minimal level of critical services to its residents, its pension and retiree health care costs must be significantly reduced and that freed-up money plus additional, substantial financial assistance must be invested in critical City services.
  - The substantial financial assistance would come from the monetization of the Chester Water Authority (CWA) in the form of a significant initial outlay of money followed by predictable, on-going support tailored to the City's needs. Regardless of the form it takes, the Receiver has determined that monetizing the CWA is a vital and indispensable centerpiece to Chester's recovery. The City requires the right to take back the Authority to achieve a grand bargain.
  - If this does not occur, Chester will not be viable as a city.

# Path Forward



- Chester's path forward can be summarized by the following "Three Rs":
  1. Reduce retiree health care and pension costs
  2. Restructure City operations
  3. Reinvest in City services
- The "grand bargain" reached in the City of Detroit's bankruptcy proceeding (discussed on the next slide) provides a possible roadmap for what a path forward for Chester may look like.

# Path Forward

## *Detroit's "Grand Bargain"*



- Significant cuts to retiree health care of approximately 90% of the value of the benefit.
  - Instituted a VEBA defined contribution health care plan for retirees.
- Pension changes to active and retiree pension benefits:
  - Plans were frozen and remaining active employees moved to a less generous hybrid pension plan
  - Police and fire retirees (plans were relatively well-funded) had pension COLAs reduced by 45%
  - Non-police and non-fire retirees had their pensions cut by 4.5%
  - Note: The average pension benefit for Detroit pensioners was not particularly high. The average annual pension for general city retiree was \$19,213 and for police officers and firefighters (who did not receive Social Security) was \$30,607. In Central Falls, RI, another municipal bankruptcy case, pension benefits for retirees were cut by 55%.
- Substantial state and foundation financial assistance (\$816 million over 20 years) for pension costs:
  - State (Michigan) immediately contributed \$194.8 million to pensions and was relieved of possible pension claims
  - Detroit Institute of Art, whose art pieces were at risk of being sold, would contribute \$100 million over 20 years to the pension funds
  - Various foundations would contribute \$366 million over 20 years to the pension funds to protect the artwork from being sale





# Reducing Retiree Health Care & Pension Liabilities

# Reducing Retiree Health Care & Pension Liabilities



- The City cannot afford to make its required payments (minimum municipal obligations or MMOs) to its three pension funds:
  - Total City 2020 MMO is \$10,215,000 for all three plans as allocated below:
    - Police: \$8,220,254
    - Officers & Employees: \$1,041,780
    - Fire: \$953,107
    - City has only contributed \$3,890,752 this year – all of which went into the Police Plan
- In addition to the remaining 2020 payment, the City also owes \$27,620,174 for past due MMO payments as allocated below:
  - Police: \$25,609,281
  - Officers & Employees: \$924,273
  - Fire: \$1,086,620
- The total 2021 MMO is approximately \$10.7 million. **This means, to be current on pension payments in 2021, the City would need to contribute \$44,644,422.**

# Reducing Retiree Health Care & Pension Liabilities



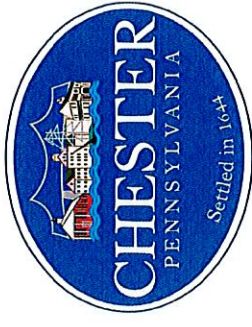
- The Police Pension Fund is projected to completely run out of money in March 2021 – approximately 5 months from now.
- Recent police retirees (last 15 years) have an extremely rich pension benefit that is well in excess of Third-Class City Code provisions.
  - Due to pension benefits that are much more generous than Third-Class City Code provisions, some police officers in the last 15 years have been able to spike pensions and retire on questionable disability claims that allowed pensions of 100% of W-2 salary. Two officers in their 40s entered DROP this year with \$100,000+ pensions.
- Benefits must be reduced for active and already retired police officers to have any meaningful impact on the City's pension costs.
  - More recent retirees (last 15 years) have significantly higher pensions than earlier retirees. Earlier retirees did not have these pension spiking or disability issues.
  - While the City has changed these benefits for officers hired after 2/1/2017, this does not provide even near-term relief.



# Reducing Retiree Health Care & Pension Liabilities



- City has approximately 150 retirees and spouses who are old enough to qualify for Medicare, but remain on the City's health care plans. These retirees are contractually required to switch to the Medicare Supplemental Plan; however they must sign up for Medicare first and are not doing so.
  - Medicare Supplemental Plan provides an equal to or better than level of benefits that retirees are currently receiving, but at approximately half the cost to the City.
    - Many retirees, however, have either not signed up for Medicare or will have to pay for Part B and possibly Part A premiums since they did not contribute to Social Security when employed. For those who have not signed up, there may be a monetary penalty.
- Receiver's team is currently working to move retirees to the Medicare Supplemental Plan; however, it is possible that due to the City's dire financial condition, it will not even be able to afford that plan.
  - City sent out letters in January 2020 to retirees requesting that they sign up for the Medicare Supplemental Plan. Very few retirees did so. Another letter was sent out on Oct. 29<sup>th</sup>. Receiver's team is developing a virtual presentation to retirees explaining City's situation.



# Restructuring Operations

# Restructuring Operations

## *Chief Operating Officer*



- Under the current form of government, each Council member serves as a department head. There is no single individual, such as a city manager, in charge of City operations. This arrangement is extremely rare for Pennsylvania cities of this size and does not meet Chester's needs.
- The Receiver will be creating a Chief Operating Officer position who will be responsible for overseeing and coordinating City operations.



# Restructuring Operations

## Police



- To date, Chester has experienced 33 murders, which is significantly more than the 18 experienced in each of the previous two years. This is a murder rate of approximately 1 out every 1,000 people and almost 4 times Philadelphia's rate this year.
- Due to understaffing in the police department, and the financial inability to utilize significant overtime, the City often has an inadequate number of police officers on patrol.
- The police department is experiencing a great deal of turnover and has many officers on injury leave.
- Due to police understaffing, the Receiver has requested a meeting with the State Police to discuss bringing them in to help. The Mayor is supportive of this request.

# Restructuring Operations

## *Basic Public Works & Code Services*



- In April, the City effectively switched to part-time public works and code enforcement activities when it furloughed approximately 1/3 of its workforce.
- The Receiver is creating a specific public works department. Under the current structure, both the streets department and the parks department have laborers, equipment operators and drivers who perform similar functions.
  - HOWEVER, the City cannot even afford a small public works department of 20 full-time employees – Easton, a similarly sized Third Class city employs approximately 40 individuals in these functional areas.
- If a snowstorm occurred, the City could not adequately plow streets as it only has 2 full-time and 6 part-time employees in its streets department. The 6 part-time employees only work 19 hours per week – 6 on Mondays and Wednesdays and 7 on Fridays. On Tuesdays and Thursdays, only 2 employees staff the department. For a 3 to 6-inch snowfall, the streets department would typically staff 16 to 20 employees.
- A part-time public works department is not sustainable.
- Despite the City's financial issues, the Receiver will be authorizing a number of public works employees to return to work full-time in November.



# Restructuring Operations

## *Basic Public Works & Code Services (contd.)*



- Illegal dumping and blight is rampant throughout the City and a part-time public works department cannot keep up with demands.
- Residential garbage pick-up is contracted out and is occurring regularly. Bulk garbage pickup (such as in the adjacent photo) is the City's responsibility.







# Reinvest in City Services

# Reinvest in City Services



- As demonstrated in the previous slides, Chester desperately needs to reinvest in its internal operations (including the ability to fund restructured retiree obligations) and in the services that it provides to the public.
- Reinvestment requires a significant initial outlay of money followed by predictable, on-going support tailored to the City's needs.
- These resources must not only come from both freed-up money from restructuring retiree obligations, but also external sources.
- Monetizing the Chester Water Authority would be a key component of a "grand bargain" that could bring a significant amount of money into the City. Regardless of the form it takes, the Receiver has determined that monetizing the CWA is a vital and indispensable centerpiece to Chester's recovery. The City requires the right to take back the Authority to achieve this grand bargain.

# Reinvest in City Operations

## *Asset Monetization – Water System*



- The Receiver's team is conducting its own independent assessment of a potential sale or other monetization of the CWA using experts from Public Financial Management who regularly perform these assessments. When the assessment is complete, the Receiver will make it public.
  - The potential value of the system is very significant.
- The City very recently provided us with analysis from a consultant that was working with the City and the CWA on a possible public-private monetization in 2018, prior to the RFP process. That analysis appears to show that, at least as of 2019, City ratepayers annually pay CWA approximately \$10.0M in fees, but that CWA operating expenses are \$3.5M for those same ratepayers – a difference of \$6.5M per year.
  - \$6.5M per year over a 40-year period generates \$260M.



# Conclusion

## *Recommended Path Forward*



- There is a path forward for Chester. It requires significantly reducing pension and retiree health costs and using that freed-up money plus additional, substantial financial assistance to reinvest in critical City services.
  - Substantial financial assistance would come from the monetization of the Chester Water Authority, regardless of the form that the monetization takes.
- Chester's path forward can be summarized by the following "Three Rs":
  1. Reduce retiree health care and pension costs
  2. Restructure City operations
  3. Reinvest in City services