

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Neal R. Weaver, in his capacity as
Acting Secretary of the Department of
Community and Economic
Development,
Petitioner,

No. 336 MD 2020

v.

City of Chester,
Respondent.

Receiver for the City of Chester Status Update

The Receiver for the City of Chester (the “Receiver”) files this Status Update (the “Update”) to inform the Court about Chester’s financial situation, the next steps following the Court’s memorandum and order regarding the parking contract, and an issue regarding what the Receiver believes to be unauthorized payments made to an employee and City officials not complying with an investigation into those payments. The Receiver will provide greater detail on the issues discussed herein or information on issues not included should the Court desire.

Chester’s Financial Situation, Options for Recovery and Bankruptcy

At the Municipal Financial Recovery Advisory Committee (“MFRAC” meeting on September 13, 2022, the Receiver’s team made a presentation entitled “Chester’s Financial Situation, Options for Recovery and Bankruptcy”. A copy of the presentation is attached as Exhibit A. The meeting, including the presentation,

was streamed live, and recorded and can be viewed on YouTube at <https://www.youtube.com/watch?v=aJ6QIuNTBQo>

The presentation provided baseline general fund projections over the next five years showing a \$46.5 million deficit in 2023 which includes \$39.8 million for the City's past due pension contributions¹. Even without those legally required contributions, the City still is projected to have a \$6.7 million (or 10%) deficit in 2023. The deficit, at \$3.6 million, is smaller in 2024 because more American Rescue Plan Act ("ARPA") dollars are planned to be used for operations however this also assumes that the \$39.8 million for the City's past due pension contributions and the \$6.7 million deficit were addressed. When ARPA expires at the end of 2024, the projected deficits jump to \$12.4 million in 2025 and then grow to \$14.4 million in 2026 and \$16.3 million in 2027.

The presentation made clear that in order for the City to be financially solvent, its recurring revenues must cover its recurring costs. If the City relies on one-time money to pay recurring costs, the City will eventually run out of one-time money and will continue to face an operating deficit. Using one-time money to plug operating deficits is a "kick the can" approach. The presentation noted that Chester

¹ The baseline projection shows what happens to revenues and expenses over the next five years assuming a "status quo" situation which means that there are no significant changes to revenues or expenses. It would be akin to if the City's revenues and expenses were on "autopilot." Slides 15 and 16 of the presentation make clear, however, that the Receiver also believes that the City needs to spend more money than is in the baseline to invest in City services and infrastructure.

has already experienced such a situation in 2017 where it borrowed approximately \$12 million to pay general fund expenses and received a \$2 million emergency loan from the Department of Community and Economic Development (“DCED”). Because the City did not reduce its expenses to an affordable level, today it is left having to pay off these loans and is still in a fiscal crisis.

In order to address these significant deficits, the presentation provided extremely difficult options to close the gap. Those options are:

- Eliminating retiree health care for all current and future retirees;
- Capping City costs for active employee health care by requiring active employees to pay more for their health care or reducing the costs of the current plans;
- Reducing annual City pension costs through a combination of revenues from monetization and cuts to current and future retirees; and
- Eliminating or substantially reducing City debt service

The Receiver made clear that he is open to other ideas. However, those ideas will need to close the deficits and must result in recurring revenues covering recurring costs.

Finally, the presentation discussed what would happen if the City were to file for a Chapter 9 bankruptcy. The presentation noted that the Receiver has not filed for

bankruptcy and that he is engaging in good faith negotiations to try to avoid a bankruptcy filing. However, should the Receiver eventually decide to file for bankruptcy, he utilized this meeting to consult with the MFRAC committee on the issue of filing for bankruptcy in compliance with Section 711(e) of Act 47.

Next Steps Regarding Parking Contract and City Council's Action

On September 19, 2022, the Court issued its memorandum and order finding that the contract between the City and PFS, VII LLC was void and that the Receiver had the authority to terminate the contract. In light of the Court's Order, the Receiver is trying to move forward with transitioning away from PFS, but some members of City Council are delaying that process.

At the September 27, 2022, MFRAC meeting, which was the first held after the Court's Order, the Receiver's Chief of Staff made the presentation attached here as Exhibit B which informed the public of the Court's Order and described the next steps that the Receiver intended to take to address parking issues in Chester. As part of those next steps, the Receiver directed that at the next City Council meeting (which occurred today, September 28, 2022) that City Council issue authorization for a parking RFP that would engage a vendor to perform the following services:

- Enforce current parking regulations including the resident parking permit program.

- Develop a comprehensive parking plan for the City via a study.
- Implement and manage a parking program for the City.

However, at the City Council meeting, City Council did not issue that authorization. Three Councilmembers were present at the meeting: Councilman William Morgan, Councilwoman Portia West and Councilman Stefan Roots. Councilman Roots made a motion to issue authorization for a parking RFP, but it failed to receive a second. Councilwoman West then made a motion to table the RFP and Councilman Morgan seconded with the final vote 2-1 to table with Councilman Roots opposing. The Receiver's Chief of Staff spoke at public comment expressing the Receiver's disappointment at the continued delay and the impact that has on City residents.

At the Council meeting, Councilman Morgan stated that he had questions about the parking RFP. The Receiver and his Chief of Staff met with Councilwoman West and Councilman Morgan with the City Solicitor on the phone immediately following the Council meeting at a regularly scheduled weekly Recovery Plan meeting. There, the Receiver asked Councilmembers Morgan and West what their questions or concerns about the parking RFP were. Rather than ask any questions, the Councilmembers stated that they wanted to wait until next week to discuss the matter.

The Receiver again is faced with an instance of City Council members preventing his ability to address the City's dire operational and fiscal problems. City Council members do not have a plan of their own to address these problems and their continued delay is hurting the residents of this City.

Issue Regarding Unauthorized Payments to an Employee

At the end of June 2022, as part of a routine backpay calculation process for a previously ratified collective bargaining agreement, the Receiver's finance team identified a public works employee who sporadically appeared in the payroll runs for the first four months of 2022. When the Receiver's team inquired about this employee, they were informed for the first time that the employee had been incarcerated since February 9, 2022 on multiple charges of crimes against a child. The City had continued to employ the individual despite his arrest and incarceration².

During the time this employee was incarcerated, he was paid 120 vacation hours in the pay period ending on March 27, 2022. In addition to the fact that 120 hours equates to 5 more days than the normal pay period, the collective bargaining agreement applicable to the employee does not provide for vacation to be paid out in this manner. The employee was also paid for 80 hours of regular time in the pay

² The Receiver directed that the termination process move forward with this employee and he was finally terminated on July 29, 2022.

period ending on April 10, 2022. Additionally, throughout the time the employee was incarcerated, the employee continued to receive City-paid health benefits.

After attempting to obtain information as to why this employee received these payments while incarcerated and not being satisfied with the answers, the Receiver issued an order on August 1, 2022, that labor counsel provide him with a written report as to what occurred. The order noted that counsel would be in contact with City officials to meet individually, and that information including documents and emails must be provided to them. A copy of that order with the employee's name redacted is attached as Exhibit C.

Labor counsel has repeatedly attempted to set up a meeting to speak with Councilwoman Portia West and Public Works director Rodney Robertson, but they have ignored these requests. The Receiver is bringing this to the Court's attention in the event that the Receiver will need to file a mandamus action to ensure cooperation.

The Receiver also notes that in this Court's March 22, 2022, Order involving the Mandamus action that the Receiver filed, the Court wrote the following regarding the issue of Councilman William Morgan approving reimbursements to himself for the purchase of \$1,5000 without sufficient documentation:

At the hearing, City Official's counsel informed the Court that the City Solicitor is presently investigating Receiver's

allegations of wrongdoing within the Finance Department and will take any necessary corrective actions resulting from his investigation. The Court will not interfere with the City's authority under its Home Rule Charter to investigate these matters internally, as long as the investigation is carried out in an ethical and impartial manner, and the City keeps Receiver apprised of its findings as the investigation continues. [March 22, 2022, at page 11].

As of the filing of this status update, nearly six months after the Court's order and despite inquiries from the Receiver, the Receiver still has not received an update as to the investigation or its conclusion. A copy of the Court's March 22, 2022, Order is attached as Exhibit D.

Respectfully submitted,

/s/ Tiffany R. Allen

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of Chester***

Dated: September 28, 2022

CERTIFICATE OF SERVICE

I, Tiffany R. Allen, hereby certify that I am this day serving the foregoing Status Update upon all counsel of record as provided on the Record of Service accompanying this electronic filing, including the counsel listed below:

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Dated: September 28, 2022

EXHIBIT A

Chester's Financial Situation, Options for Recovery, and Bankruptcy

MFRAC Meeting
September 13, 2022

Purpose of This Presentation

- Over the last two years, the Receiver's team has worked to better understand the full extent of Chester's financial problems and to develop options to address these problems so that Chester becomes financially solvent and can provide vital and necessary services to its residents.
- This presentation outlines the severe financial challenges Chester faces now and in the very near future and outlines difficult options to address them.

Putting Things in Context

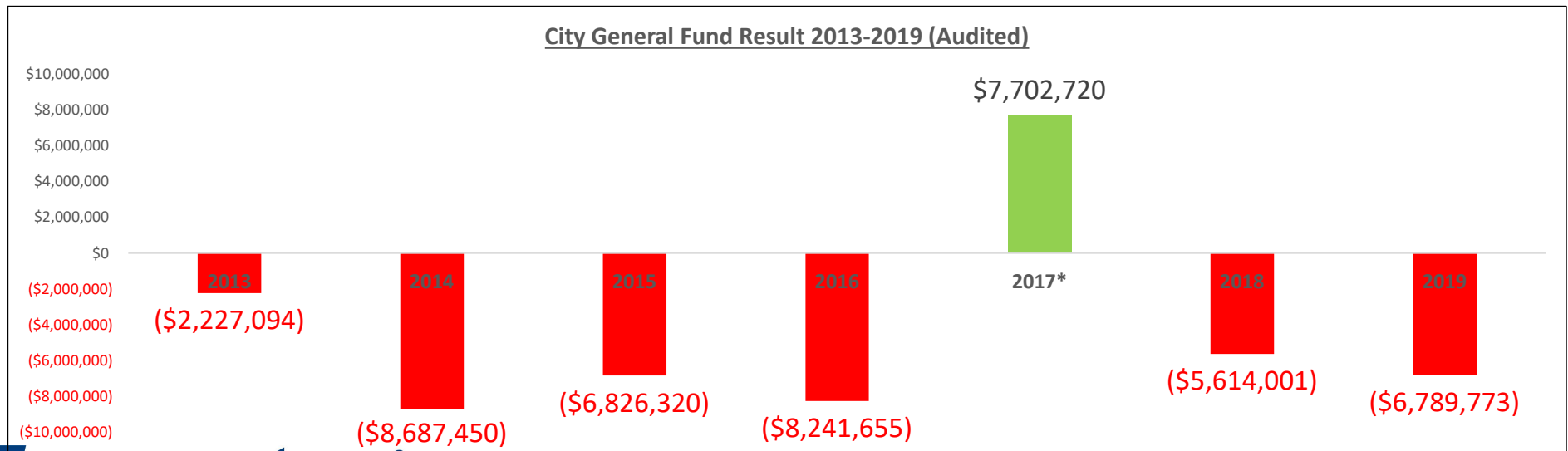
- Members of the Receiver's team have worked in many other financially distressed communities in Pennsylvania and with communities that have severely unfunded pension plans. Without a doubt, Chester's financial situation is by far the worst that we have encountered.
- The options that we will outline in this presentation are severe and we did not come to them lightly. However, given the City's grave financial condition, and its limited options, we have no choice but to raise them.

Receiver's Main Goal: Fix Chester's Problems For Real

- The Receiver's goal is to do everything he can in his power to truly address Chester's financial and operational problems so that Chester gets better **for real**.
- The City of Chester has been in some form of state oversight for over 27 years and, unlike other cities who have exited oversight, Chester's situation has gotten worse. A significant reason for this is that difficult steps that should have been taken earlier, were not. COVID-19 hurt Chester, but its problems existed before then.
- Chester's problems will get even worse if not confronted and it is better to be transparent about Chester's true situation and what actions need to be taken to help the City really recover.

Chester's General Fund Results 2013-2019

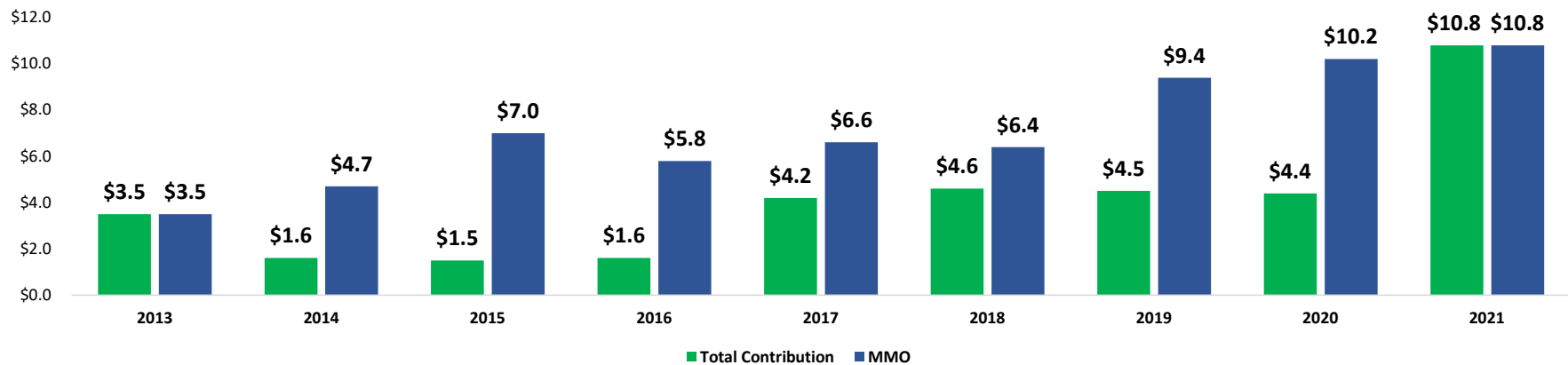
Although the effects of COVID-19 hurt the City financially in 2020, Chester's financial problems began before the pandemic. The City has been running significant annual general deficits since 2013. The positive result in 2017 came as a result of a \$12 million borrowing (think cash advance) and a \$2 million loan from DCED to avoid running out of money. However, as will soon be shown, the problem was even worse because the City was not making its required annual pension payments from 2014 to 2019 either.



City Missed Pension Payments

The City did not make its annual legally required pension payments (called MMOs) between 2014 and 2020. It contributed \$10.8 million 2021, which was the MMO “on paper” for 2021; however, these MMO amounts assume that the receivables are already in the plan when in reality they are not. The receivable amount is approximately \$39.8 million as of December 31, 2021, meaning it is even higher now due to interest.

City Contributions Relative to MMOs (\$ Millions)
2013-2021

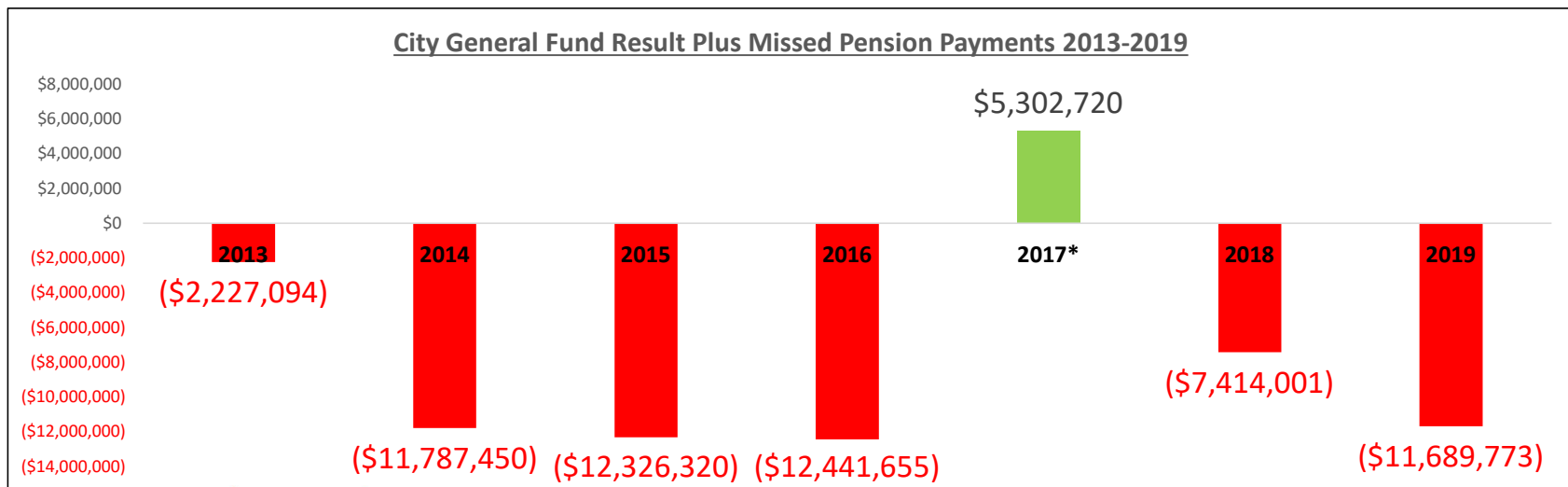


What Are Pension Receivables?

- The approximately \$39.8 million in receivables owed to the pension plans is not the same as the unfunded liability that many pension plans have. Let's use the following example to better explain it.
- Assume you have a \$100,000 remaining on a mortgage on your house and your monthly mortgage payment is \$1,000. In this example, a pension plan's unfunded liability is the amount remaining on your mortgage (the \$100,000). The receivable, however, is like your monthly pension payment. If you don't make your monthly pension payment, you have to pay penalties and interest. The approximately \$39.8 million in receivables is like missed mortgage payments (except to a pension fund).

Chester's General Fund Results 2013-2019 Including Missed Pension Payments

When including the missed pension payments from 2014-2019, the City's general fund results are even worse. Again, all of these results occurred prior to the COVID-19 pandemic in 2020 and the positive result in 2017 came as a result of a \$12 million borrowing (think cash advance) and a \$2 million loan from DCED to avoid running out of money.



* 2017 is only positive because City did a borrowing.

Why Hasn't Chester Run Out of Money Yet?

- The City wasn't paying its MMOs (reflected in pension funds)
- Assistance from the Commonwealth
 - \$5 million no interest loan from DCED that helped the City avoid running out of cash. Note that these funds are for all Act 47 cities, so if the City does not pay them back, other Act 47 cities will suffer
 - In 2017, \$2 million emergency loan from DCED when City was on the brink of running out of cash
 - Other grants
- American Rescue Plan Act (ARPA) funds

What Needs to Be Done?

Recurring Revenues Cover Recurring Expenses

- For Chester to be financially solvent, its annual revenues must cover its annual expenses. Otherwise, the City will run out of one-time money to pay recurring costs.
- Although one-time revenues, such as from monetization, are critical, they only help this particular issue if those one-time revenues can reduce the City's annual expenses. This could happen by making payments to pension funds that would reduce City annual pension payments.
- This means that monetizing the City's water system is a necessary but insufficient action to make Chester financially solvent.

Why Must Recurring Revenues Cover Recurring Costs?

- Because if they don't, you eventually run out of money even if you have a large sum of money
- Here's an example: Assume you inherit \$50,000 from a relative but each year you spend \$10,000 more than you earn. Instead of cutting costs, you just take \$10,000 each year from your \$50,000 inheritance. At the end of 5 years, you'll have spent your entire inheritance and you will not have the money to pay for all of your spending.
- The same idea applies to a city. If it gets a large lump-sum payment and uses it to plug annual operating deficits, eventually it will run out money from the payment and will be stuck with a huge deficit and no way of paying it. It's a "kick the can" approach.
 - Note: Chester has experienced a similar situation. In 2017, the City borrowed approximately \$12 million to pay general fund expenses and received a \$2 million emergency loan from DCED. However, it did not reduce its expenses to an affordable level. Consequently, the City must pay off these loans and is still in a fiscal crisis.

Baseline 5 Year Projection

Baseline 5 Year Projection

- In order to provide a starting point to understand Chester’s current and near-term financial situation, we developed a baseline 5-year revenue/expense projection. We’ll refer to this as the Baseline projection.
- The Baseline projection shows us what happens to revenues and expenses over the next five years assuming a “status quo” situation which means that there are no significant changes to revenues (such as tax or fee increases or decreases) or expenses (such as layoffs). Think of the Baseline projection as if the City’s revenues and expenses are on “autopilot.”
- The Baseline projection helps us figure out how big the gap is between revenues and expenses, and what is causing that gap, so that we can come up with possible solutions to close the gap.
- We are constantly reviewing the City’s actual revenue and expenditure data in order to confirm the growth assumptions we use. Therefore, these numbers may change in the future.

Major Assumptions of Baseline Projection

- City real estate tax remains at 9.4041 mills
- City resident earned income tax remains at 3.75% (2nd highest in PA)
- City commuter earned income tax remains at 2.75% (2nd highest in PA)
- No change in casino or Covanta revenue sharing arrangements
- City headcount remains the same, including police and fire (no layoffs)
- Salaries increase by 3%; health insurance costs rise between 5% and 20% per year
- No new debt, no programs, no new positions (Chief Financial Officer comes back in-house)
- \$3 million per year for capital projects

Not in the Baseline

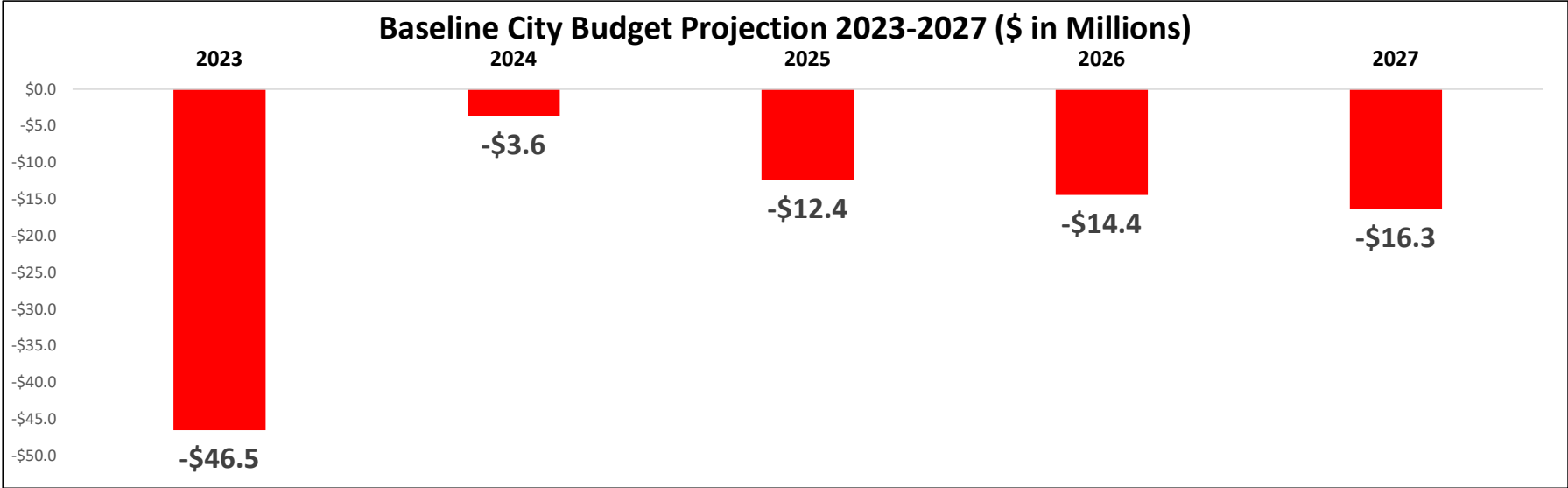
- Possible earned income tax diversion to Chester Upland School District (lost annual revenues between \$1.5 million and \$1.7 million)
- Health insurance premium costs grow faster than projected
 - City on pace to spend \$1.5 million more than what was budgeted in 2022
- Potential costs associated with Advanced Life Support (ALS) ambulance services
- Cost of any large, emergency repairs to City-owned buildings or vehicles, which are in very poor condition

Baseline Caveats

- The baseline does not attempt to quantify the maximum amount that City government needs to meet all financial objectives. The goal of strong financial management is not just to balance to zero where revenues match expenditures, though achieving that structural balance is a core component of financial recovery. The Receiver has determined that the City needs to spend more than the baseline in some areas, so there is adequate managerial support in information technology or human resources, otherwise the rest of the organization cannot be effective.
- To provide vital and necessary services, the City also needs to invest in its infrastructure – roads, bridges, parks, facilities, large vehicles and equipment, etc. We will discuss the very poor condition of these assets and have included a minimum capital contribution in the baseline projection, but we have not calculated the maximum amount needed for these investments. That would require more detailed projections that account for the likely timing of projects, inflationary pressures that push costs higher before projects begin, and other relevant information that is not available at this time.

Baseline 5 Year Projection

The City’s current baseline projection shows a \$46.5 million deficit in 2023. That includes \$39.8 million for the past due pension contributions, but even without that, the City has a \$6.7 million (or 10 percent) deficit. The deficit is smaller in 2024 because we project using more ARPA money for operations. When ARPA expires at the end of 2024, the deficits jump to \$12.4 million in 2025 and then grow even more.



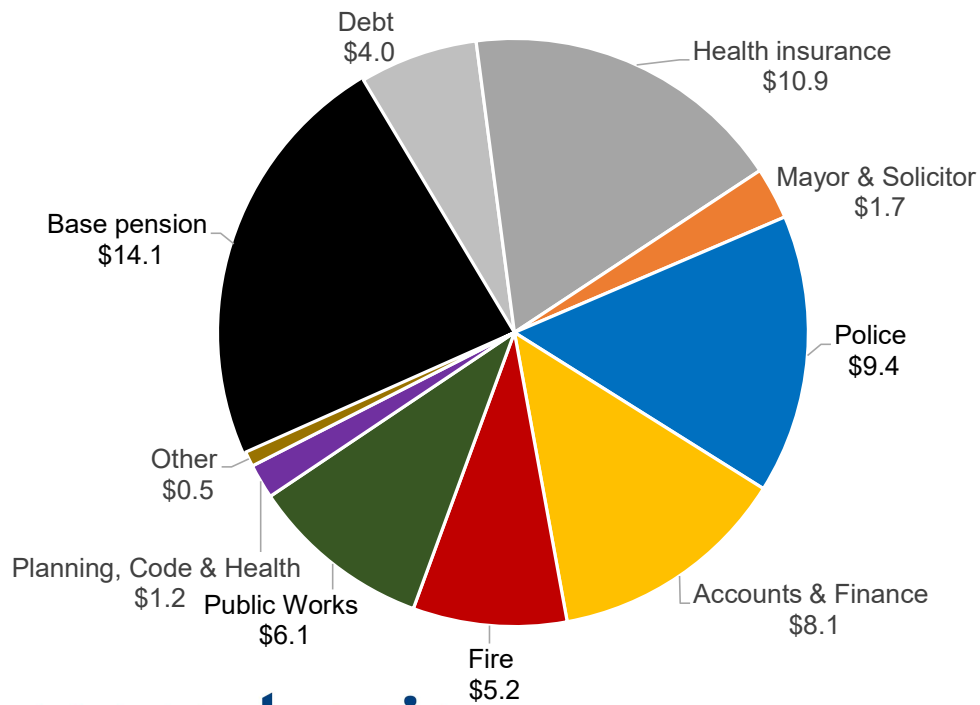
Why is the 2023 Deficit So High?

- From 2013-2020, the City did not make its full legally required pension payments to the pension funds. The City must pay interest on those missed payments and the total amount owed as of December 31, 2021 is nearly \$39.8 million and is even higher now.
- In calculating the City's annual pension contribution or "minimum municipal obligation" (MMO), the actuary assumes this approximately \$39.8 million is already in the pension plans even though in reality, it is not. They call this approximately \$39.8 million a "receivable."
- This means that the City's real legally required pension contribution for 2023 is the approximately \$39.8 million PLUS the \$14.1 MMO for a total of approximately \$53.9 million.
- **Even if we excluded the approximately \$39.8 million from the 2023 budget, we still project an approximately \$6.7 million deficit.**

The 2023 Deficit in Context

- The projected 2023 City operating budget is approximately \$61.2 million. This includes \$14.1 million for the annual pension payment or MMO
- Adding the \$39.8 million in receivables would result in a pension contribution of \$53.9 million (just to be current) which equates to approximately 88% of the City's **ENTIRE** 2023 general fund operating budget
- Essentially, to fund the pension contributions and debt repayments in 2023, the City would need to eliminate every service it provides and every City employee for one year AND it would still need to cut retiree health care for all active and retired employees for that year.

The 2023 Deficit in Context



How Do We Close this Gap in 2023?

- In order to close the 2023 gap caused by paying for the receivables, the City needs a significant influx of money which would most likely come from the monetization of the water system.
 - We must recognize that monetization of the water system will eventually lead to higher rates for residents and property owners whether it is privatized or remains in public hands
- However, even with such an influx of money, we still have an approximately \$6.7 million deficit and recurring revenues still do not cover recurring expenses. Again, monetizing the water system is a necessary but insufficient step in Chester's recovery.

Why Is There Another Big Cliff in 2025?

- The City received \$30.4 million through the American Rescue Plan Act of 2021 (ARPA) which has saved Chester from running out of money
- The City is able to use some of this money to pay for positions which were eliminated during the pandemic. It also allows the City to spend a certain amount of money for general operations using a calculation referred to as “revenue replacement” which is based on the City 2019 revenues and revenues in the respective year.
- The federal guidelines prohibit the City from using any ARPA money for return-to-work or revenue replacement after 2024. So the ARPA funding in the operating budget drops from \$7.1 million in 2024 to \$0 in 2025. There is also a federal grant to fund 8 firefighters that expires in 2024.

City's Reliance on ARPA

Revenue Replacement

- The City is using as much ARPA revenue as it legally can through 2024.
- We project the City budget to increasingly rely on ARPA's revenue replacement going forward as follows:
 - 2021 actual (based on 2020 preliminary cash numbers): \$2.6 million
 - 2022 actual (based on 2021 preliminary cash numbers): \$3.0 million
 - 2023 estimate (based on 2022 projection): \$1.2 million
 - Note: This decrease comes from stronger than expected EIT revenues in 2022 which have been accounted for in the baseline.
 - 2024 estimate (based on 2023 projection): \$6.1 million
- As revenue data comes in to the City, the 2023 or 2024 estimates may change based on that data.

City's Reliance on ARPA

Return to Work

- The return to work and health/economic impact provisions of ARPA have allowed the City to bring back or fund the following positions:
 - 5 public works laborers
 - 1 clerk/typist
 - 1 administrative assistant
 - Workforce development coordinator
 - Community Health Education Coordinator
 - COVID Specialist
 - Building health monitor
 - City Accountant (1/2 of salary)
 - Supervisor of Inspectors
- In 2025, however, the City will not be able to use ARPA funding for these positions.

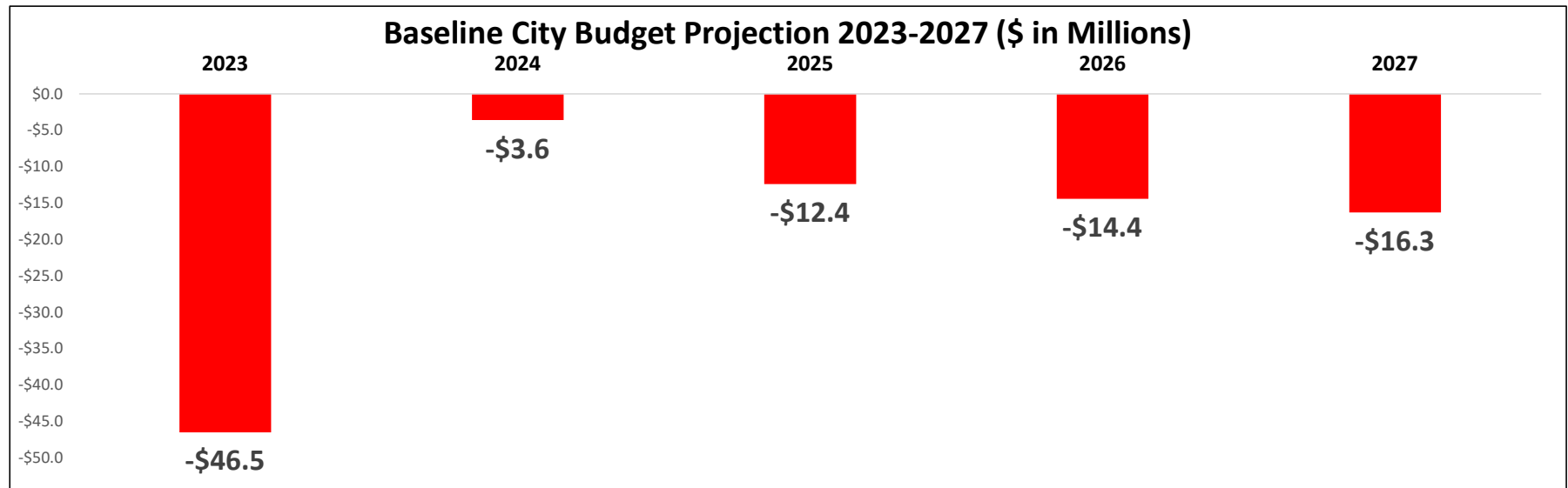
Options for Closing the Gap

Options

- To close deficits this big, we must consider extremely difficult actions
- The only options that would come close to doing this are:
 - Eliminating retiree health care for all current and future retirees
 - Cap City costs for active employee health care by requiring active employees to pay more for their health care or reducing the costs of the current plans
 - Reducing annual City pension costs through a combination of revenues from monetization and cuts to current and future retirees
 - Eliminating or substantially reducing City debt service
- The Receiver is open to other ideas; however, they will need to close these deficits and they must result in recurring revenues covering recurring expenses.

Baseline 5 Year Projection

The City's current baseline projection shows a \$46.5 million deficit in 2023. That includes \$39.8 million for the past due pension contributions, but even without that, the City has a \$6.7 million (or 10 percent) deficit. The deficit is smaller in 2024 because we project using more ARPA money for operations. When ARPA expires at the end of 2024, the deficits jump to \$12.4 million in 2025 and then grow even more.



Eliminate Retiree Health Care for All Current and Future Retirees

- The City of Chester is self-insured for active and retiree health care meaning that it pays the actual costs of health care incurred
 - Note: Last year, the City moved a significant number of retirees to a Medicare Supplemental plan which pays first and the City is then responsible for costs not covered by that plan

Plan	Number of Retirees
Select POS	90
Select EPO	34
EPO Buy-Up	24
POS	3
Medicare Supplement Plan	131

Summary Plan Design

Benefits	PROPOSED PLAN				
	EPO Base Plan	EPO BuyUp	Select EPO	POS	Select POS
In-Network					
Deductible	\$1,500 / \$3,000	\$0 / \$0	\$0 / \$0	\$0 / \$0	\$0 / \$0
Coinsurance	80%	100%	100%	100%	100%
Out-of-Pocket Max	\$7,500 / \$15,000	\$6,600 / \$13,200	\$500 / \$1,000	\$6,600 / \$13,200	\$500 / \$1,000
Preventive	100%	100%	100%	100%	100%
PCP Copay	\$20 Copay	\$15 Copay	\$5 Copay	\$15 Copay	\$5 Copay
Specialist Copay	\$40 Copay	\$30 Copay	\$5 Copay	\$30 Copay	\$5 Copay
Lab Services	\$20 Copay	\$15 Copay	100%	\$15 Copay	100%
X-Ray	\$40 Copay	\$30 Copay	100%	\$30 Copay	100%
Complex Imaging	80% after Ded.	100% after Ded.	100% after Ded.	100% after Ded.	100% after Ded.
Inpatient Hospital	80% after Ded.	\$500 Copay	100%	\$500 Copay	100%
Outpatient Surgery	80% after Ded.	\$50 Copay	100%	\$50 Copay	100%
Emergency Room	\$250 Copay	\$250 Copay	\$100 Copay	\$250 Copay	\$100 Copay
Out-of-Network					
Deductible				\$1,500 / \$4,500	\$500 / \$1,000
Coinsurance				50%	80%
Out-of-Pocket Max				\$10,000 / \$30,000	\$3,000 / \$6,000
PCP Copay	Not Covered	Not Covered	Not Covered	50% Coinsurance	80% Coinsurance
Specialist Copay				50% Coinsurance	80% Coinsurance
Inpatient Hospital				50% Coinsurance	80% Coinsurance
Outpatient Surgery				50% Coinsurance	80% Coinsurance
Emergency Room Copay	\$250 Copay	\$250 Copay	\$100 Copay	\$250 Copay	\$100 Copay
Prescription Drug (Retail/M.O)					
Generic	\$10 / \$20	\$5 / \$10	\$1 / \$1	\$5 / \$10	\$1 / \$1
Preferred Brand	\$20 / \$40	\$10 / \$20	\$3 / \$3	\$10 / \$20	\$3 / \$3
Non-Preferred Brand	\$50 / \$100	\$25 / \$50	\$3 / \$3	\$25 / \$50	\$3 / \$3
Specialty	\$50	\$25	\$3	\$25	\$3

- Select POS & Select EPO plan are very rich and feature:
 - ✓ \$0 deductible
 - ✓ Low out-of-pocket maximum (\$500/\$1000)
 - ✓ \$5 copay for PCP/Specialist visits
 - ✓ \$1 generic /\$3 preferred /\$3 non-preferred Rx drug copays

Retiree Health Care

As noted earlier, the City is self-insured and pays the actual costs for medical services. However, actuaries can estimate the premium equivalent amounts for each plan which gives a sense of how expensive they are. Both plans' premium equivalent for employee and spouse are greater than the 2020 City of Chester median household income of \$32,867.

2022 Annual Premium Equivalent Amounts

	Select EPO	Select POS
Employee	\$14,867.52	\$15,391.44
Employee + Child(ren)	\$26,910.24	\$27,858.48
Employee + Spouse	\$34,046.76	\$35,246.52
Employee + Family	\$45,346.08	\$46,944.12

Estimated Savings from Eliminating Retiree Health Care

Below are the estimated savings to the City from eliminating retiree health care beginning in 2023.

2023	2024	2025	2026	2027
\$5,966,000	\$6,461,000	\$6,999,000	\$7,590,000	\$8,238,000

Cap City Costs for Active Employee Health Care

Like the retirees, active employees also receive a very costly health care plan. All but one active employee is in the “EPO – Buy-Up” Plan. The EPO – Base plan does not require an employee premium contribution.

2022 Annual Premium Equivalent Amounts

	EPO – Base	EPO - Buy-up
Employee	\$11,269.56	\$13,881.84
Employee + Child(ren)	\$20,331.84	\$25,125.96
Employee + Spouse	\$25,722.36	\$31,789.32
Employee + Family	\$34,275.24	\$42,339.48

Summary Plan Design

Benefits	PROPOSED PLAN				
	EPO Base Plan	EPO BuyUp	Select EPO	POS	Select POS
In-Network					
Deductible	\$1,500 / \$3,000	\$0 / \$0	\$0 / \$0	\$0 / \$0	\$0 / \$0
Coinsurance	80%	100%	100%	100%	100%
Out-of-Pocket Max	\$7,500 / \$15,000	\$6,600 / \$13,200	\$500 / \$1,000	\$6,600 / \$13,200	\$500 / \$1,000
Preventive	100%	100%	100%	100%	100%
PCP Copay	\$20 Copay	\$15 Copay	\$5 Copay	\$15 Copay	\$5 Copay
Specialist Copay	\$40 Copay	\$30 Copay	\$5 Copay	\$30 Copay	\$5 Copay
Lab Services	\$20 Copay	\$15 Copay	100%	\$15 Copay	100%
X-Ray	\$40 Copay	\$30 Copay	100%	\$30 Copay	100%
Complex Imaging	80% after Ded.	100% after Ded.	100% after Ded.	100% after Ded.	100% after Ded.
Inpatient Hospital	80% after Ded.	\$500 Copay	100%	\$500 Copay	100%
Outpatient Surgery	80% after Ded.	\$50 Copay	100%	\$50 Copay	100%
Emergency Room	\$250 Copay	\$250 Copay	\$100 Copay	\$250 Copay	\$100 Copay
Out-of-Network					
Deductible				\$1,500 / \$4,500	\$500 / \$1,000
Coinsurance				50%	80%
Out-of-Pocket Max				\$10,000 / \$30,000	\$3,000 / \$6,000
PCP Copay	Not Covered	Not Covered	Not Covered	50% Coinsurance	80% Coinsurance
Specialist Copay				50% Coinsurance	80% Coinsurance
Inpatient Hospital				50% Coinsurance	80% Coinsurance
Outpatient Surgery				50% Coinsurance	80% Coinsurance
Emergency Room Copay	\$250 Copay	\$250 Copay	\$100 Copay	\$250 Copay	\$100 Copay
Prescription Drug (Retail/M.O)					
Generic	\$10 / \$20	\$5 / \$10	\$1 / \$1	\$5 / \$10	\$1 / \$1
Preferred Brand	\$20 / \$40	\$10 / \$20	\$3 / \$3	\$10 / \$20	\$3 / \$3
Non-Preferred Brand	\$50 / \$100	\$25 / \$50	\$3 / \$3	\$25 / \$50	\$3 / \$3
Specialty	\$50	\$25	\$3	\$25	\$3

• The EPO Buy-up plan features:

- ✓ \$0 deductible
- ✓ \$15 copay for PCP visits and \$30 copay for Specialist visits
- ✓ \$5 generic /\$10 preferred /\$25 non-preferred retail Rx drug copays

Cap City Costs for Active Employee Health Care

The Amended Recovery Plan sets “caps” on the amounts that the City would need to pay for health care costs including vision and dental. Any costs over the cap would be paid by the employee as an employee contribution. However, these have not been applied to union employees because they have not agreed to them in their collective bargaining agreements. The caps have been applied to non-represented City employees.

Health Care Caps in Amended Recovery Plan

	2022	2023
Employee	\$11,592	\$12,168
Employee + Child(ren)	\$21,144	\$22,200
Employee + Spouse	\$26,544	\$27,876
Employee + Family	\$35,112	\$36,864

Estimated Savings to City from Capping Health Care Costs Per Recovery Plan

Applying the caps beginning in 2023 (and assuming a 5% growth in those caps per year) would save the City the following amounts.

	2023	2024	2025	2026	2027
Medical/Rx Savings	\$728,000	\$933,000	\$1,163,000	\$1,419,000	\$1,705,000
Dental/Vision Savings	\$267,000	\$284,000	\$303,000	\$323,000	\$345,000
Total Cap Savings	\$995,000	1,217,000	\$1,466,000	\$1,742,000	\$2,050,000

Reduce Annual City Pension Payments Through Pension Cuts and One-time Revenues from Monetization

- For the City to recover financially, it must address its severely underfunded and costly pension situation
 - As of August 31, 2022, the City's police pension plan has assets equivalent to approximately 8 months of pension payments.
- Doing so will require BOTH a very large cash infusion into the pension plans as well as cuts to existing pensions so that costs drop to a level that the City can afford and then stabilize.
- The only asset that that the City has that can come close to the amount of money that the City needs is its water system
 - The Receiver has stated that while monetization of the water system must occur, that does not necessarily mean that the system needs to be privatized

Impact of Large Payment on Distressed Pension EIT

- Because its pension plans are so poorly funded, the City has the power and does levy a “distressed pension” earned income tax on residents and commuters.
- If the plans are no longer financially distressed (through a combination of large deposits and benefit cuts), the City will lose the power to levy that tax.
- Consequently, we must account for the loss of the distressed pension earned income tax in this analysis.

Current Benefits Are Higher Than Law Requires

Police Pension Plan

- The pension benefits offered to fire and police employees are greater than what is required by the law.
- Chester currently has a two-tier system for police officers hired pre- and post-February 1, 2017. Those hired post-February 1, 2017 have a benefit more in line with the minimum under the law.

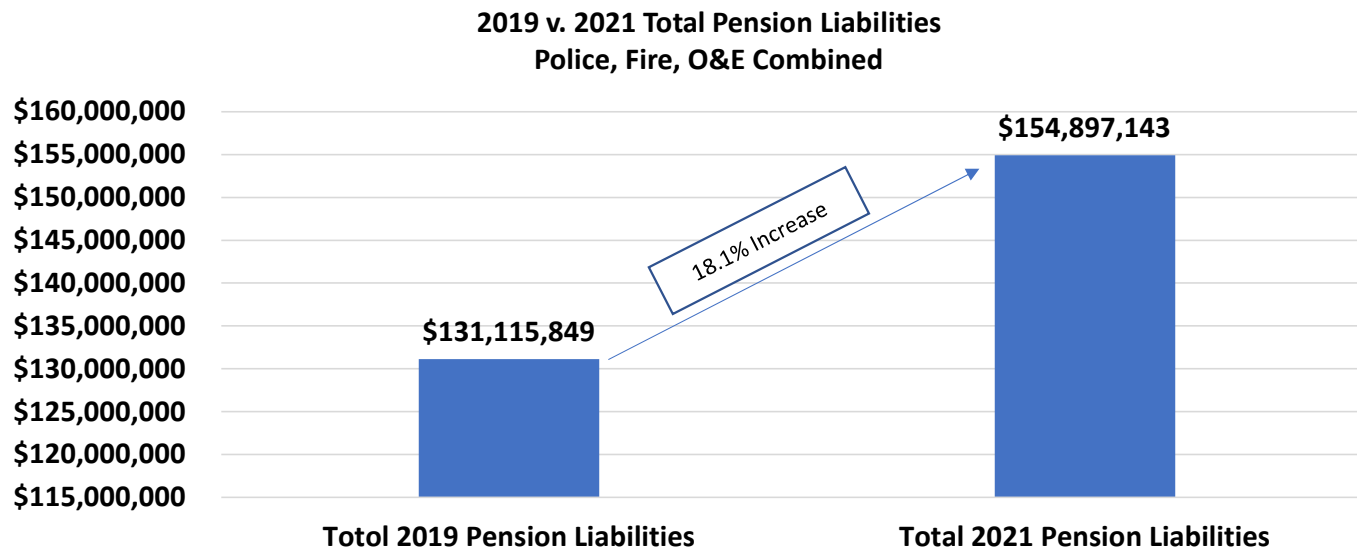
Police Officer Pension Benefits

Key Benefit Provisions	Pre-2/1/2017 Hires	Post-2/1/2017 Hires Third Class City Code
Service Retirement Benefit Formula	50% of FAS	50% of FAS
Final Average Salary (FAS)*	Officers have received highest 12 months, but should be average of last 3 years preceding retirement	Greater of 12 months or 5 year average
Compensation included in FAS	All W-2 earnings, including overtime	Base pay + longevity only
Age & Years of Service (YOS) Requirement	Any age with 20 YOS	Age 50 and 25 YOS
Service Credit	Up to 5 YOS for Military Service	Up to 5 YOS for Military Service
Service Disability Retirement	50% of FAS/70% of FAS for in the line of duty disability	50% of FAS/70% of FAS for in the line of duty disability
Deferred Retirement Option Program	Yes @ Age 50 with 20 YOS	Yes @ Age 50 and 25 YOS
Employee Contribution	8.0%	8.0%

Note: Although above shown for police, fire has a similar structure.

Significant Increase in Pension Liabilities

- The 2021 valuations reflect a 18.1% increase in total pension liabilities compared with 2019. This significant increase is largely due to changes in actuarial assumptions that better reflect actual outcomes, including a reduction in the expected rate of return from 7.5% to 6.5%



Benefit Enhancements Contribute to Funding Challenges

- While discussions have historically focused on the fact that the City underfunded the police pension fund – which is true – pension benefit enhancements over the years also contributed to the significant benefit costs faced today. In the Retiree Information session on February 15, 2022, we presented slides that discussed the police pension benefit enhancements that contributed to these significant benefit costs
- The history shows that Chester appeared to be on the course to contain pension costs; however, pension benefit increases – some of which were agreed to – undid prior reforms

Police Pension Benefit History

- In conducting our analysis, we reviewed collective bargaining agreements, memoranda of understanding (MOUs) and interest arbitration awards dating back to 1972 to trace the changes in the police pension benefit and retiree health care
- The history showed an increasing pension benefit level until the period around 1987-1989 where reforms were agreed to in a MOU that created new benefit tier for police officers hired after 1987
- Many of those reforms were eliminated in the 2003-2005 MOU and the pension benefit was also enhanced in a 2012 interest arbitration award
- Additionally, in 2009, it appears that the City Pension board improperly enhanced the benefit for certain police officers by changing the final average salary from the last 3 years to the last 12 months which allowed pension spiking

Reduce Annual City Pension Payments Through Pension Reductions and One-time Revenues from Monetization

	2023	2024	2025	2026	2027
MMO Savings from Elimination of Unfunded Liability and Payment of Receivables	\$39,756,000 (must be done through monetization)	\$12,007,000	\$11,943,000	\$11,877,000	\$11,808,000
Elimination of Distressed EIT	\$0	(\$7,338,000)	(\$7,584,000)	(\$7,812,000)	(\$8,046,000)
Total Savings	\$39,756,000	\$4,669,000	\$4,359,000	\$4,065,000	\$3,762,000

Eliminate/Significantly Reduce Debt Service

The City issued debt to support the community college in 2010 and then issued debt again in 2017, partially to cover its operating expenses (which is not how debt should be used). Each year, the City must make a payment to pay back these borrowings (called a debt service payment).

Series 2017A Bonds	In August 2017, City issued \$12 million in bonds to pay general fund liabilities and to create required reserve funds. This borrowing essentially took the City's unpaid liabilities from 2017 and spread them over 10 years.
Series 2017B Bonds	Essentially refinancing debt originally issued by the Chester Economic Development Authority (CEDA). Funded the acquisition of property leased by the City and funded reserves.
Series 2010B Bonds	In 2010, City issued \$3,985,000 in bonds to meet the obligations associated with allowing the Chester Upland School District to become a sponsoring district for Delaware County Community College.
Series 2019 Bonds	In 2009, Delaware County issued \$28,950,000 in bonds as part of the overall financing to build what is now called Subaru Park in Chester. The County refinanced those bonds in 2019. Pursuant to a contribution agreement between the City and the County, Chester has agreed to pay 25 percent of the annual debt service.

Eliminate/Significantly Reduce Debt Service

If debt service is eliminated or significantly reduced, the City would save the following each year:

2023	2024	2025	2026	2027
\$3,695,000	\$3,680,000	\$3,697,000	\$3,568,000	\$3,539,000

Putting It Together

The following table applies the impact of the options against the Baseline. This assumes monetization/pension reductions that fully eliminate the unfunded liabilities (not just the receivables). Furthermore, it also includes setting aside \$6 million for a cash flow reserve that the City needs and money for necessary capital projects.

	2023	2024	2025	2026	2027
	Projected	Projected	Projected	Projected	Projected
Baseline	(\$46,467,000)	(\$3,575,000)	(\$12,437,000)	(\$14,411,000)	(\$16,310,000)
MMO savings from one big pension contribution in 2023	\$39,756,000	\$12,007,000	\$11,943,000	\$11,877,000	\$11,808,000
Eliminated distressed pension EIT	\$0	(\$7,338,000)	(\$7,584,000)	(\$7,812,000)	(\$8,046,000)
OPEB eliminated in 2023	\$5,966,000	\$6,461,000	\$6,999,000	\$7,590,000	\$8,238,000
Health insurance caps applied to active employees	\$995,000	\$1,217,000	\$1,466,000	\$1,742,000	\$2,050,000
Debt elimination	\$3,495,000	\$3,480,000	\$3,497,000	\$3,368,000	\$3,339,000
Create cash flow reserve	\$0	(\$6,000,000)	\$0	\$0	\$0
Additional capital for City facilities	\$0	(\$3,000,000)	\$0	\$0	\$0
Net surplus / (Deficit)	\$3,745,000	\$3,252,000	\$3,884,000	\$2,354,000	\$1,079,000

What Does This NOT Include?

- Additional money for investment in active employee compensation
- Economic development impacts
- Money necessary to fully address City's capital needs
- Enough money to set aside for an appropriate amount of reserves for a city in Chester's condition (more than 16% of general fund expenses)
- Please also recall the caveats on the Baseline (see slide 16) regarding the need to invest in City operations and capital needs

What Comes Next?

What Real Options Does the Receiver Have?

- Truthfully, very few.
- The Receiver can only take action that the law allows him to take.
- The only path the Receiver has is to try to get the affected parties to agree to these changes or other changes that would close the gap and, if he is not successful, to file a Chapter 9 bankruptcy.

What Would Bankruptcy Mean for Chester?

- Bankruptcy would provide Chester with the ability to try to reduce its pension and retiree health care costs, which it must do to have any chance of being fiscally solvent.
- Bankruptcy would also allow Chester the opportunity to negotiate with other creditors so that the City can have a fresh start, which it desperately needs.

What Would Bankruptcy Mean for Residents?

- Chester would continue to provide services to residents. However, we would expect that some employees would choose to leave City employment due to the uncertainty of bankruptcy. We would also expect that the City would have difficulty filling vacancies due to that same uncertainty.

Discussion with MFRAC re Bankruptcy

- Section 711(e) of Act 47 requires the Receiver to “consult with the [MFRAC] committee prior to exercising any of the powers under 706(a)(1), (2), (3), (5), (6), (7) and (9)”.
 - The Receiver’s power to file bankruptcy is enumerated at 706(a)(9)
- The Receiver has not filed for bankruptcy and is engaging in good faith negotiations with relevant groups to try to avoid a bankruptcy filing.
- The Receiver is using this meeting to consult with the MFRAC committee on the issue of filing for bankruptcy in compliance with Section 711(e).

EXHIBIT B

Parking Contract Case Decision

MFRAC Meeting
September 27, 2022

Decision in Parking Contract Matter

- On September 19, 2022, the Commonwealth Court found that the parking contract between the City and PFS VII, LLC was **VOID** and that the Receiver may terminate the parking contract.
- Specifically, the Court wrote: “[T]his Court concludes that the City failed to comply with the advertising and competitive bidding requirements of the Third Class City Code, and, as a result, the parking contract is void.” (Decision at p. 19)

Decision in Parking Contract Matter

- Further, the Court wrote on page 21 of its decision:
 - “Here, this Court is not faced with a technical defect in the execution of a public contract, such as a missing signature or a failure to reduce an oral agreement to writing, that can be remedied by subsequent ratification. Receiver contends, and this Court agrees, that the City failed to comply with the mandatory competitive bidding procedures in awarding the contract to PFS, thereby rendering the contract void. It is well settled that “[the] mandatory requirements for competitive bidding exist to invite competition and to guard against favoritism, improvidence, extravagance, fraud and corruption in the award of municipal contracts.” *Fedorko*, 755 A.2d at 122.

What Does it Mean for a Contract to Be Void?

- A “void” contract essentially means that it never existed in the first place. The services of that “contract” can no longer be performed under the law.
- The Receiver cannot agree to extend the contract with PFS as there is no contract because it is void.

Other Significant Aspects of the Decision

- The Court found that the Receiver has broad authority: “Given the broad authority granted to an appointed receiver and the concomitant limitations placed on an elected or appointed official’s authority following the Court’s confirmation of a recovery plan, this Court concludes that it may reject Receiver’s proposed termination of the parking contract *only if it determines that termination is inconsistent with the Amended Recovery Plan.*” (Decision on pages 9-10 emphasis added)
- To the Receiver’s knowledge, this is also the first instance of a Court allowing a Receiver to use his powers under Act 47 to terminate a contract.

What's Next for Parking in Chester?

- The Receiver has directed that, at tomorrow's City Council meeting, the City issue authorization for a parking RFP that would engage a vendor to perform the following services:
 - Enforce current parking regulations including the resident parking permit program
 - Develop a comprehensive parking plan for the City via a study
 - Implement and manage a parking program for the City
- The Receiver will be issuing a letter to PFS to cease their services as their contract is void.

What's Next for Parking in Chester? (contd.)

- Based on the status of where things stand now, the following is the rough timeline for next steps:
 - Assuming that City Council votes to issue authorization for the RFP tomorrow, the RFP would likely be posted next week (first week of October) and responses would likely be due towards the end of October
 - A selection would then be made within 30 days after
 - The selection committee will be made up of the Receiver, the Receiver's Chief of Staff, another member of the Receiver's team, the COO and a Councilmember
 - After a selection is made, a contract would be negotiated and once that is completed, the vendor will begin work

EXHIBIT C

ORDER

TO All Chester City Elected Officials, City Solicitor, Interim COO, City HR and Finance Staff, City Public Works Staff

FROM Michael Doweary, Receiver

DATE August 1, 2022

RE Order Regarding Information re [REDACTED] Employment Actions

On June 30, 2022, I emailed this group requesting information regarding the handling of an employment situation involving City employee [REDACTED]. In that email, I requested information about why he was not terminated after his arrest on charges of child rape in February 2022 and why he was paid and continued to receive City-paid health benefits during a period in which he was incarcerated. I noted in that June 30, 2022 email, that I and my staff did not become aware of [REDACTED] situation until June 27, 2022.

On July 7, 2022, I participated in a call with Councilman Morgan, Councilwoman West, Solicitor Schuster, COO Dixon, HR Director Pettiford, Kelley Settles, Vijay Kapoor and attorney Ben Patchen of Campbell Durrant where this matter was discussed and at which I directed that the City move forward with the termination process of [REDACTED]. After a second Loudermill hearing on July 26, 2022, (again ordered by me), [REDACTED] was finally terminated on July 29, 2022.

I continue to have questions surrounding how [REDACTED] was treated and why the City approved the following payments to him while he was incarcerated:

- Pay period ending 2/13/2022: 64 regular hours 16 admin hours
- Pay period ending 2/27/2022: No hours
- Pay period ending 3/13/2022: No hours
- Pay period ending 3/27/2022: 120 vacation hours (note that this equates to 15 days which is 5 more than the normal pay period)
- Pay period ending 4/10/2022: 80 regular hours

So that I can properly fulfill my duties as Receiver, I have requested outside labor counsel Campbell Durrant to provide me with a written report as to what occurred and why regarding [REDACTED]. The attorneys will be in contact with you to meet individually. The attorneys may also request information such as documents and emails which must be provided to them.

I have asked for this report to be completed as soon as possible. Should you have any questions, please let me know.

EXHIBIT D

In his Petition, Receiver asks this Court to issue a writ of mandamus directing that City Officials comply with the initiatives outlined in the Amended Recovery Plan, which this Court approved on June 7, 2021, and with Receiver's Orders issued on December 23, 2021 and March 2, 2022 pursuant to Section 708 of Act 47.² Receiver contends that City Officials' recent actions have interfered with the fiscal goals of the Amended Recovery Plan and threaten to impair the City of Chester's (City) ability to provide vital and necessary services to its residents. Specifically, Receiver asks this Court to direct that City Officials:

(1) comply with Receiver's December 23, 2021 Order, Act 47, and the Amended Recovery Plan by rescinding the \$10,000 salary increases City Officials recently granted themselves;

(2) rescind Resolution 28-2022, which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by a current City employee; and

(3) comply with Receiver's March 2, 2022 Order regarding the City's Finance and Human Resources Departments' staffing and internal controls.

² Section 708 of Act 47 provides:

(a) Orders.--The receiver may issue an order to an elected or appointed official of the distressed municipality or an authority to:

(1) implement any provision of the recovery plan; and

(2) refrain from taking any action that would interfere with the powers granted to the receiver or the goals of the recovery plan.

(b) Enforcement.--An order issued under subsection (a) shall be enforceable under [S]ection 709 [of Act 47].

53 P.S. § 11701.708. Section 708 of Act 47 was added by the Act of October 20, 2011, P.L. 318.

Pet. for Writ of Mandamus at 5.

Both Receiver and City Officials presented argument and testimony in support of their respective positions at a Web-Ex hearing before the Court on March 14, 2022.

The Court will briefly address each issue raised in the Petition.

1. Salary Increases

On June 7, 2021, this Court approved Receiver's Amended Recovery Plan, which includes Initiative WF27 regarding city official salaries. Initiative WF27 was the result of negotiations between Receiver and the City.³ Initiative WF27 states in pertinent part:

WF27: Mayor, City Council and Controller salaries

Prior to 2020, each City Council member and the elected Controller earned \$35,000 and the Mayor earned \$41,000. In 2020, two Council members and the elected Controller received \$25,000 increases to \$60,000 and the Mayor received a \$34,000 increase to \$75,000.

During the 2021 budget process, the City agreed to lower the salary of the Mayor from \$75,000 to \$65,000, the Controller's salary from \$60,000 to \$50,000 and City Council members set to earn \$60,000 to \$50,000. Council members who were due to earn \$35,000 in 2021 did not receive a salary reduction.

The City shall take action to change City ordinances to reflect that the new salary going forward for the Mayor is \$65,000, and the new salary for Council Members and the Controller is \$50,000. The new salary level for Council members currently earning \$35,000 will take effect at the beginning of the new term for those particular Council seats.

Pet. for Writ of Mandamus, Tab D, at 83-84 (emphasis added).

³ In his Petition, Receiver asserts that the City did not object to Initiative WF27 during the two-day confirmation hearing held on the Amended Recovery Plan in June 2021. Pet. for Writ of Mandamus at 5.

Receiver alleges that, during budget discussions with Receiver's team in December 2021, Mayor Kirkland and Councilman Morgan informed Receiver that City Council intended to pass a budget in 2022 restoring the \$10,000 salary increases that were eliminated in 2021 by Initiative WF27. On December 23, 2021, Receiver ordered the Mayor and City Council to approve a budget that included salaries compliant with Initiative WF27. On December 27, 2021, Councilman Morgan responded that City Council intended to restore the salary increases in the 2022 budget.

At the hearing, City Officials' counsel argued that Article III, Section 27 of the Pennsylvania Constitution prohibits the City from reducing the salaries of elected officials mid-term, such as City Officials here. Article III, Section 27 states that “[n]o law shall extend the term of any public officer, or increase or diminish his salary or emoluments, after his election or appointment.” Pa. Const. art. III, § 27 (emphasis added); *see also Buckwalter v. Borough of Phoenixville*, 985 A.2d 728, 733 (Pa. 2009) (holding that municipalities, like the General Assembly, may not alter the compensation of elected officials by ordinance in the middle of their terms pursuant to Article III, Section 27).

City Solicitor Kenneth Shuster, Esquire, testified, as a witness, that during the COVID-19 pandemic, the City voluntarily reduced City Officials' salaries by \$10,000 each, without passing an ordinance, but that reduction was only intended to be temporary. In their brief, City Officials assert:

The salar[ies] of [City O]fficials was established by ordinance prior to the receivership. During the pandemic[,] [City O]fficials voluntarily reduced their salar[ies] for one year without an ordinance. The current salar[ies are] an increase over the prior year but [are] not the result of the officials giving themselves a raise. It is as a result of the voluntary

reduction and the salaries returning to the pre-pandemic level[s] established by the ordinance.

City Officials' Br. in Support of Answer to Pet. for Mandamus at 9.

However, the plain language of Initiative WF27 states that “the new salary *going forward* for the Mayor is \$65,000, and the new salary for Council Members and the Controller is \$50,000.” Pet. for Writ of Mandamus, Tab D, at 83 (emphasis added). Initiative WF27 also mandates that the City make the salary reductions permanent by passing an ordinance, stating that “[t]he City *shall take action to change City ordinances* to reflect” the reduced salaries. *Id.* (emphasis added). Contrary to City Officials’ contention, it is evident that the reduction in salaries was *not* intended to be temporary. Rather, the record shows that the City agreed to reduce the salaries of the Mayor, the Controller, and certain City Council members by \$10,000 each *and* agreed to pass an ordinance, at the appropriate time, setting the new salaries “going forward.” *Id.*

The Court further concludes that the salary reductions in Initiative WF27 do not violate Article III, Section 27 of the Pennsylvania Constitution, as long as they are set to take effect at the *beginning* of each elected official’s new term. Our courts have held that Article III, Section 27 prohibits a municipality from reducing elected officials’ salaries by ordinance in the middle of their terms. *See Buckwalter*, 985 A.2d at 733; *see also Meade v. City of Phila.*, 65 A.3d 1031, 1040 (Pa. Cmwlth. 2013) (*en banc*) (concluding that Article III, Section 27 prohibited salary reductions in the middle of the terms of members of the City of Philadelphia’s Board of Revision of Taxes). Initiative WF27 states that “[t]he new salary level for [*City*] *Council members currently earning \$35,000* will take effect *at the beginning of the new term for those particular Council seats.*” Pet. for Writ of Mandamus, Tab D, at 83-84 (emphasis added). It does not include similar language with regard to the

Mayor's and the Controller's salaries or the salaries of City Council members who were previously earning \$60,000. The present record also does not indicate when City Officials' various terms of office began or are set to end.

At the hearing, the parties informed the Court that, to date, no ordinance regarding salary reductions has been passed. The Court concludes that the City violated the Amended Recovery Plan and this Court's June 7, 2021 Order by not passing an ordinance to reflect the new salaries going forward for the Mayor, the Controller, and City Council members as outlined in Initiative WF27. However, in order to comply with the Pennsylvania Constitution, the salary reduction ordinance, when passed, must state that the new salaries for the Mayor, the Controller, and City Council members will take effect at the *beginning of the new term* for each of those elected positions.

Accordingly, the Court grants in part and denies in part Receiver's request for a writ of mandamus on this issue.

2. Liquor License

Receiver alleges that, on February 22, 2022, he learned of an agenda item for the next City Council meeting involving Resolution 28-2022, which supported an application for an economic development liquor license, including consent for the use of the license, to a property partially owned by Ronald Starr, the City's Business Development Director and the Mayor's ex-son-in-law. Receiver alleges that he emailed the Mayor, City Council, and the City Solicitor requesting that Resolution 28-2022 be removed from the agenda so that they could discuss potential ethical concerns stemming from the proposed resolution. On February 23, 2022, at a public meeting, City Council passed Resolution 28-2022, without disclosing that Mr. Starr was a City employee or the Mayor's ex-son-in-law.

On March 2, 2022, Receiver issued an “Order re: Council Action on Economic Development Liquor License” to the Mayor and City Council, directing that City Council rescind Resolution 28-2022. *See* Pet. for Writ of Mandamus, Tab B. In the Order, Receiver expressed his concerns about the Resolution as follows:

Pages 89-100 of the Amended Recovery Plan deal directly with economic development. The Plan states[:] “The [C]ity’s resurgence will be built upon a strong local economy and expanded tax base, which requires a strategic effort to attract and retain businesses and create job opportunities for the local workforce that provide a living wage.”

The ethical issues of this action should be obvious. If the City is to attract businesses to invest in it, which it desperately needs, businesses need to be assured that there is a level playing field in the City and that certain individuals, especially those related to elected officials, will not get preferential treatment.

Actions like these, which are not transparent and which directly benefit existing City employees who are also related to elected officials, create exactly the opposite perception and hurt Chester’s ability to attract business investment.

Id.; *see* Pet. for Writ of Mandamus, Tab D, at 89-100 (outlining economic development goals and initiatives for the City). Receiver alleges that the Mayor responded to the Order by verbally informing Receiver that City Council would not rescind the resolution.

At the hearing, Receiver’s counsel argued that, by passing a resolution that financially benefits a current City employee and ex-relative of the Mayor, City Council violated a key goal of the Amended Recovery Plan, which is to improve the overall perception of the City. *See* Pet. for Writ of Mandamus, Tab D, at 94 (Goal Number 4 of the economic development plan). Vijay Kapoor, Receiver’s Chief of Staff, testified that before the February 23, 2022 City Council meeting, Receiver

asked to meet with the Mayor and City Council to learn more about the proposed liquor license and discuss any potential ethical concerns. Mr. Kapoor also testified that Receiver was not necessarily opposed to the Resolution; he merely wanted to be fully informed of the details of the proposed liquor license before City Council voted on it.

Mr. Shuster testified that Resolution 28-2022 declared City Council's support for Mr. Starr's proposed economic development liquor license, which is the *first* step toward obtaining a license. Mr. Starr still must go before the Pennsylvania Liquor Control Board for final review and approval of the license. Mr. Shuster further testified that Mr. Starr intends to open a fine dining restaurant with a liquor license on the property, which is located in the City's downtown area. Mr. Shuster testified that the proposed dining establishment would rehabilitate an abandoned and blighted building, create jobs for City residents, and generate revenue for the City.

The Court concludes that while the Mayor and City Council certainly should have been more transparent in the proposal and adoption of Resolution 28-2022, the Resolution itself, which declares City Council's support for Mr. Starr's proposed economic development liquor license, does not conflict with the stated goals or initiatives in the Amended Recovery Plan. It appears, based on Mr. Shuster's testimony, that the proposed license may in fact promote several goals of the Amended Recovery Plan, including increasing jobs and economic opportunities in the City, attracting commercial development to the City, and improving the quality of life for City residents and workers. *See* Pet. for Writ of Mandamus, Tab D, at 94.

Accordingly, the Court denies Receiver's request for a writ of mandamus on this issue.

3. Finance & Human Resource Departments

Receiver alleges that on March 2, 2022, he issued an Order to City Officials addressing problems with staffing and internal operations in the City’s Finance and Human Resources Departments, both of which are overseen by Councilman Morgan. Councilman Morgan has served as Director of the Finance and Human Resources Departments since September 2016 and was appointed by the Mayor to that position.

Receiver alleges that he issued the March 2, 2022 Order to rectify issues that have impeded his ability to implement the Amended Recovery Plan. Those issues include: failing to complete monthly bank reconciliations; making late and/or inaccurate federal tax payments, which caused the City to incur tax penalties of approximately \$750,000; approving reimbursements for the purchase of \$1,500 in gift cards without sufficient documentation; making improper “hazard” payments to certain employees totaling \$137,540; allowing the Mayor, the City Solicitor Shuster, Councilman Morgan, former Chief Financial Officer (CFO) Nafis Nichols, and three employees in the Human Resources Department to remain on an expensive health care plan that had been discontinued; and preventing the Interim CFO, who was appointed by Receiver, from fulfilling her duties and obligations under the Amended Recovery Plan. *See* Pet. for Writ of Mandamus, Tab C. Receiver alleges that on March 2, 2022, the City Solicitor informed him that the City would not comply with all of the provisions of the March 2, 2022 Order.

Section 704(a)(1) of Act 47 provides that this Court’s approval of a recovery plan “impos[es] on the elected and appointed officials of the distressed municipality a **mandatory duty** to undertake the acts set forth in the recovery plan.” 53 P.S. § 11701.704(a)(1) (emphasis added).⁴ The Court concludes, based on the credited testimony, that Councilman Morgan and members of his team have engaged in

⁴ Section 704 of Act 47 was added by the Act of October 20, 2011, P.L. 318.

conduct that has impeded Receiver's ability carry out the goals of the Amended Recovery Plan, particularly with regard to their dealings with Interim CFO Sheila Winfrey Brown.

Under Section 708(a) of Act 47, a receiver may only issue orders to elected and appointed officials directing them to: (1) implement the provisions of the recovery plan; and (2) refrain from taking actions that would interfere with the receiver's powers or the goals of the plan. 53 P.S. § 11701.708(a). Here, however, Receiver asks this Court to remove Councilman Morgan from his appointed position and prohibit him from exercising any further authority with regard to fiscal matters. *See* Pet. for Writ of Mandamus, Tab C. While Section 704(a)(2) of Act 47 states that the Court's confirmation of a recovery plan effectively "suspend[s]" an appointed official's power "to the extent that the power would interfere with the powers granted to the receiver," 53 P.S. § 11701.704(a)(2), it does not expressly authorize Receiver to remove an appointed official from his position.⁵ In fact, Section 704(b)(1) states that the Court's confirmation of the plan "*shall not be construed to . . . change the form of government of the distressed municipality.*" *Id.* § 704(b)(1) (emphasis added).

Furthermore, the City's Home Rule Charter authorizes City Council to investigate alleged wrongdoing by City officials. *See* Answer to Pet. for Mandamus, Ex. 1, at 9. The Home Rule Charter also provides that the Mayor shall supervise the conduct of all City officials and "examine the grounds of all reasonable complaints against them, and cause all of their violations or neglect of duty to be promptly punished or reported to [City] Council for correction." *Id.* The City's right to self-

⁵ Section 706(a) of Act 47, which delineates the powers and duties of an appointed receiver, also does not contain such an express authorization. *See* 53 P.S. § 11701.706(a), added by the Act of October 20, 2011, P.L. 318.

govern is further protected by Article IX, Section 2 of the Pennsylvania Constitution, which states: “A municipality which has a home rule charter may exercise any power or perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.” Pa. Const. art IX, § 2. At the hearing, City Official’s counsel informed the Court that the City Solicitor is presently investigating Receiver’s allegations of wrongdoing within the Finance Department and will take any necessary corrective actions resulting from his investigation. The Court will not interfere with the City’s authority under its Home Rule Charter to investigate these matters internally, as long as the investigation is carried out in an ethical and impartial manner, and the City keeps Receiver apprised of its findings as the investigation continues.

During the hearing, both sides agreed that the Finance Department is understaffed and would benefit from the hiring of more accountants. Ms. Brown also credibly testified that her job duties have been hampered by Councilman Morgan and his team and that she needs their cooperation going forward to clear the backlog of work and rectify the deficiencies within the Finance Department. The Court agrees that mutual cooperation between Receiver’s team and Councilman Morgan’s team is necessary to carry out their mandatory duties under the Amended Recovery Plan. *See* 53 P.S. §11701.704(a)(1). To effectuate this objective, the Court will direct that City Officials comply with Paragraphs 4 through 8 and Paragraph 11 of Receiver’s March 2, 2022, Order.⁶

⁶ These paragraphs state:

4. Mr. Morgan shall not direct any employee to act or take any action that in any way interferes with the operations of the City’s Finance and Human Resources Departments or that interferes in any way with the decisions of the Interim CFO or her successor unless such directive is approved by the Receiver.

Accordingly, the Court grants in part and denies in part Receiver's request for a writ of mandamus on this issue.

* * *

Based on the foregoing analysis and conclusions, the Court enters the following order:

5. Mr. Morgan shall not take any action to interfere with the duties of the Interim CFO or her successor without the direct review and approval of the Receiver.

6. Mr. Morgan shall take all steps necessary to ensure that the Interim CFO and her successor has access to all offices, files, and all equipment that she or the Receiver requests.

7. Mr. Morgan shall comply with all programs, policies, procedures, audit recommendations, and monetary and financial controls implemented by the Interim CFO and her successor.

8. Mr. Morgan shall not take any action to interfere with the supervision of the Human Resources and Finance Departments and any other employee under the supervision of the Interim CFO or her successor.

....

11. City employees and elected officials shall provide the Interim CFO with any information she requests and shall follow the directives she makes in her role as Interim CFO.

ORDER

AND NOW, this 22nd day of March 2022, upon consideration of Receiver's Petition for Writ of Mandamus, City Officials' Answer thereto, and the arguments and evidence presented at the hearing on March 14, 2022, including the credited testimony, the Court hereby GRANTS IN PART AND DENIES IN PART the Petition for Writ of Mandamus, as follows.

It is hereby ORDERED and DIRECTED that:

1. City Council shall pass an ordinance, consistent with Initiative WF27 of the Amended Recovery Plan, to reflect that the new salary going forward for the Mayor is \$65,000, and the new salary for the Controller and City Council members is \$50,000, and that the new salaries will take effect at the beginning of the new terms for those elected officials;
2. City Council shall pass the salary reduction ordinance at the next regularly scheduled City Council meeting, or prior to the next election, whichever is sooner;
3. City Officials shall comply with Paragraphs 4 through 8 and Paragraph 11 of Receiver's "Order re: Necessary Steps to Comply With Recovery Plan," dated March 2, 2022, relating to the City's Finance and Human Resources Departments (Petition for Writ of Mandamus, Tab C);
4. Councilman Morgan and his team shall immediately share any future correspondence or information they receive relating to the City's finances with Receiver and the Interim CFO;
5. The Parties shall continue to file regular status reports with the Court, as required by Act 47, to update the Court on the City's progress toward implementation of the Amended Recovery Plan and compliance with the directives in this Order; and

6. Receiver shall file the next status report with the Court no later than May 31, 2022. The Court reserves the right to request status reports when it deems such reports necessary, and the parties may request status conferences as needed to maintain progress with the Amended Recovery Plan.

Jurisdiction retained.



ELLEN CEISLER, Judge