



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

IN RE:	:	TERMINATION OF DISTRESSED
	:	STATUS UNDER SECTION 255.1
BOROUGH OF MAHANOEY CITY	:	OF THE MUNICIPALITIES
SCHUYLKILL COUNTY	:	FINANCIAL RECOVERY ACT

DEPARTMENTAL DETERMINATION AND ORDER

1. On February 18, 2016, the Borough of Mahanoy City (the “Borough”) was designated a financially distressed municipality pursuant to the Municipalities Financial Recovery Act (“Act 47”), codified at 53 P.S. § 11701.101 *et seq.*
2. On November 4, 2022, Pennsylvania Economy League, the Act 47 Coordinator for the Borough, filed a final report which recommended termination of the Borough's distressed status.
3. In accordance with Section 255.1(a) of Act 47, on November 29, 2022, a public hearing was held at which a designated hearing officer received evidence regarding the potential termination of the Borough’s distressed status.
4. In determining whether the Borough’s distressed status shall be terminated, Section 255.1 of Act 47 requires a consideration of whether:
 - a) Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures, demonstrates a reasonable probability of future balanced budgets absent participation in this act.
 - b) Obligations issued to finance the municipality’s debt have been retired, reduced, or reissued in a manner that has adequately refinanced outstanding principal and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.
 - c) The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of default.

d) The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations, and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after termination of distressed status.

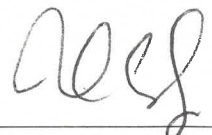
53 P.S. § 11701.255.1(c)(1)-(4).

5. With regard to the first factor, the Borough experienced four years of surpluses during the years 2018-2021. Based upon the Borough's adopted 2022 budget and the Coordinator's end of year estimate, the Borough is estimated to incur a surplus of \$255,864 in 2022.
6. With regard to the second factor, the Borough's 2022 debt service is budgeted at \$108,056. Throughout the recovery period the Borough has made timely debt service payments. In 2021, the Borough was able to retire one debt a year early. Additionally, the Borough will be retiring a large portion of its outstanding debt before 2028. The Borough will continue to levy a debt service millage through that time.
7. With regard to the third factor, the Coordinator is not aware of any significant current or pending claims or judgements against the municipality.
8. With regard to the fourth factor, the Coordinator projects that the Borough will incur operating deficits during the 2023-2027 projection period with the exception of 2023. The lack of inherent growth in the Borough's real property tax revenue and only slight growth in the Borough's earned income tax revenue coupled with annual projected expenditure growth over 2% will cause the Borough to experience operating budget deficits. It is the opinion of the Coordinator that the opportunity for expenditure reduction over the next five years is limited except in the debt service category. It is also the Coordinator's opinion that the Borough may eliminate the projected operating budget deficits through tax or fee increases.

AND NOW, this the 23rd day of February 2023, upon review of the written recommendation of the Act 47 Coordinator, the recommendations of departmental staff and the Act 47 Coordinator, and the evidence received at the public hearing, along with other considerations, the above-captioned request is granted.

IT IS ORDERED that the status of the Borough of Mahanoy City, Schuylkill County, as a financially distressed municipality under the Municipalities Financial Recovery Act, Act 47 of 1987, as amended, is terminated.

By:



Frederick C. Siger
Acting DCED Secretary

Mahanoy City Borough
SCHUYLKILL COUNTY

EVALUATION OF THE ACT 47 COORDINATOR'S RECOMMENDATION TO
TERMINATE FINANCIALLY DISTRESSED STATUS UNDER ACT 47, THE
MUNICIPALITIES FINANCIAL RECOVERY ACT

HEARING HELD: Tuesday, November 29, 2022

TABLE OF CONTENTS

Report of the Hearing Officer including Findings of Fact

Exhibits

Act 47 Coordinator's Recommendation

A

Notice of Hearing

B

Stenographic Record of Public Hearing

C

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
GOVERNOR'S CENTER FOR LOCAL GOVERNMENT SERVICES

HEARING REGARDING TERMINATION OF DISTRESSED STATUS OF THE
Borough of Mahanoy City

FINDING OF FACTS

A public hearing was held in the Borough of Mahanoy City ("Borough"), Schuylkill County, on November 29, 2022, to receive testimony regarding the *Act 47 Coordinator's Recommendation to the Secretary of the Department of Community and Economic Development* ("DCED") *for the Borough of Mahanoy City* (the "Recommendation" or "Recommendation and Report") to terminate the designation of distress made on February 18, 2016 under Act 47 of 1987, as amended, also known as the Municipalities Financial Recovery Act. Notice of the public hearing was advertised in accordance with Section 203 of Act 47 and the Sunshine Act. The purpose of the hearing was to gather information on the Borough's financial condition to assist the Secretary of DCED in determining whether the Borough's financial condition satisfied the necessary conditions to terminate its distressed status and to inform the officials, employees, and citizens of the Borough of Mahanoy City of the Act 47 termination process.

Prior to the hearing, on November 4, 2022, the Act 47 Coordinator for the Borough (the "Coordinator" or "Recovery Coordinator"), Pennsylvania Economy League ("PEL"), submitted a Final Report Stating the Financial Condition of the Borough of Mahanoy City and Finding Regarding Termination of Distressed Status ("Final Report") which reviews the statutory factors necessary to request a termination of the Borough's distressed status, and the statutory criteria regarding whether to issue a determination of fiscal emergency in the Borough. The Final Report, based upon a review of the totality of the factors included in Section 255.1(c) of Act 47, the Coordinator concludes that substantial evidence supports a determination to terminate the Borough's distressed status.

The Hearing Officer, Andrew Sheaf, Local Government Policy Manager with the Governor's Center for Local Government Services, made opening remarks welcoming everyone to the public hearing and stated that the public hearing would be held in accordance with Act 47. Mr. Sheaf stated the purpose of the proceeding was to receive testimony on whether the Borough of Mahanoy City's Act 47 distress designation should be terminated pursuant to Act 47 based upon the Coordinator's Recommendation dated November 4, 2022.

Borough Council President Michael Connolly, Borough Manager John Fatula, Senior Analyst with Pennsylvania Economy League Gerald Cross, and DCED Regional Local Government Policy Specialist James Rose, provided testimony in support of the termination of the distress designation.

Council President Michael Connolly testified that he agrees with terminating the Act 47 distressed status. He stated that with the assistance from the Coordinator the Borough is now in a very good position. Mr. Connolly noted that he was present for most of the challenges and changes implemented through Act 47 and is satisfied where the Borough is presently.

Borough Manager, John Fatula, testified that the financial condition of the Borough has vastly improved since its designation as a distressed municipality in February of 2016. He stated progress has been steady and he believes it will continue. Mr. Fatula also agrees with terminating the Act 47 distressed status.

Gerald Cross, Senior Analyst with Pennsylvania Economy League, Coordinator, testified in favor of termination of distressed status. Mr. Cross stated that, as part of the Act 47 process, the Coordinator is required to complete a report stating the financial condition of the municipality. Mr. Cross requested that a copy of this report be included in the official record of the hearing.

The following are excerpts of that report:

It is the Coordinator's finding that the Borough has made noteworthy progress on several fronts since 2016 that had initially led to the declaration of distress. Borough Council and management have actively, cooperatively, and proactively engaged the Coordinator over the past five years and have proceeded with the implementation of many of the initiatives included in the Borough's 2016 Recovery Plan and subsequent amendments. The Borough has avoided financial crises, has completed 2021 with a balanced operating budget and is anticipated to complete 2022 with a balanced operating budget.

The Coordinator evaluated the criteria delineated in Section 255.1(c) of Act 47 in order to make a recommendation regarding whether the Borough's Act 47 distressed status should be terminated. The Report found that:

1. Operational deficits of the municipality have been eliminated and the financial condition of the municipality demonstrates a reasonable probability of future balanced budgets absent participation in this act.
2. There is a reasonable probability that the Borough should be able to continue timely debt service payments outside of Act 47.
3. The Borough has negotiated and resolved all claims and judgments that would have placed the Borough in imminent jeopardy of financial default.
4. The reasonably projected revenues of the Borough are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services.

Mr. Cross testified that although the Borough has experienced a mix of operating budget surpluses and deficits over the past six years, the Borough has achieved many successes that will assist in

sustaining the Borough's financial condition into the future, including the referendum approving a Home Rule charter form of government.

Mr. Cross stated that the Borough is projected to experience operating deficits in the future as the rate of the Borough's expenditure growth outpaces the rate of the Borough's revenue growth. However, it remains the Coordinator's opinion that the Borough can manage the projected operating budget deficits and sustain a sufficient cash flow in future fiscal years by incrementally increasing the general fund millage and/or the Borough's earned income tax rate.

Mr. Cross stated that it was the Coordinator's opinion that the Borough of Mahanoy City would be able to meet all its financial obligations as they come due. It is also the Coordinator's opinion that the Borough is presently able to provide vital and necessary services to its residents. Mr. Cross concluded by stating that it is the recommendation of the Coordinator that the Secretary of DCED issue a determination terminating the order declaring the Borough of Mahanoy City a distressed municipality as defined by Act 47 of 1987, as amended.

James Rose, Local Government Policy Specialist, testified he had been working with the Borough before they were considered distressed. He commended Borough Council's willingness to cooperate with the Coordinator and implement its recommendations. He believes this willingness directly influenced its ability to improve its financial stability. He noted that council hired an excellent manager. The Borough has implemented many policies and procedures that will help it be stable well into the future. He strongly recommended that the determination be terminated.

Hearing Officer Andrew Sheaf thanked those in attendance and those who testified. He then stated that all findings and a recommendation will be presented to DCED Acting Secretary Rick Siger for his consideration of the Borough of Mahanoy City's status as a financially distressed municipality.

CONCLUSION

The financial condition and position of the Borough of Mahanoy City has significantly improved. The Coordinator's recommendations, reports and the testimonies provided during this Act 47 Hearing reflect the improved financial condition and outlook that should allow the Borough to function with more independence. In conclusion, it is recommended that the Borough of Mahanoy City's financially distressed status be terminated.

EXHIBIT A

ACT 47 FINANCIAL RECOVERY PLAN

FINAL REPORT
STATING THE FINANCIAL CONDITION
OF THE BOROUGH OF MAHANOEY CITY AND
FINDING REGARDING TERMINATION OF DISTRESSED STATUS
Schuylkill County

Prepared By:

Pennsylvania Economy League, Central PA Division, LLC

415 Market Street, Suite 206A

Harrisburg, PA 17101

November 2022

Finding

The Coordinator has reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the Borough of Mahanoy City a distressed municipality; and also the statutory criteria of whether to issue a determination of fiscal emergency in the Borough, recommend the disincorporation of the Borough or that a three-year exit plan is warranted. It is the recommendation of the Coordinator that based upon a review of the totality of the factors included in §11701.255.1(c), substantial evidence supports an affirmative determination by the Secretary to issue a determination to rescind the order declaring the Borough of Mahanoy City a distressed municipality.

Pursuant to Section 255 of Municipalities Financial Recovery Act of Jul. 10, 1987, P.L. 246, No. 47, (Act 47) following the September 22, 2022 submission of the Report Stating the Financial Condition of The Borough of Mahanoy City, the necessary advertising of a public notice, and a period of written public comment ending October 7, 2022, a public meeting was held on October 11, 2022.

No written public comments were submitted to the Coordinator during the public comment period and there was no public comment received during the public meeting. Accordingly, the Coordinator has not revised the original Report Stating the Financial Condition of The Borough of Mahanoy City and submits this final report to the Secretary of the Department of Community and Economic Development and Borough officials pursuant to Section 255 (e) (4) of Act 47.

The Coordinator finds that the conditions within the municipality warrant a termination in status in accordance with section 255.1.

Recommendation

Although the Borough has experienced a mix of operating budget surpluses and deficits over the past six years, the Borough has achieved many successes that will assist in sustaining the Borough's financial condition into the future not the least of which was the referendum approving a Home Rule charter form of government.

The Coordinator projects that the Borough will experience operating deficits in the future as the rate of the Borough's expenditure growth outpaces the rate of the Borough's revenue growth. It remains the Coordinator's opinion that the Borough can manage the projected

operating budget deficits and sustain a sufficient cash flow throughout future fiscal years by incrementally changing the debt service millage to general fund millage and/or by increasing the Borough's earned income tax rate.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. At this time, it is the Coordinator's opinion that the Borough of Mahanoy City can meet all its financial obligations as they come due. It is also the Coordinator's opinion that the Borough is presently able to provide vital and necessary services to its residents. Therefore, for the reasons stated in the following report, it is the recommendation of the Coordinator that the Secretary of DCED issue a determination rescinding the order declaring the Borough of Mahanoy City a distressed municipality as defined by Act 47 of 1987, as amended.

Introduction

Pursuant to the Commonwealth of Pennsylvania's Municipalities Financial Recovery Act, Act 47 of 1987, as amended, (Act 47) the Borough of Mahanoy City (Borough) was declared a financially distressed municipality by order of the Secretary of the Department of Community and Economic Development (DCED) on February 18, 2016. The Pennsylvania Economy League (PEL) was subsequently appointed the Act 47 Coordinator (Coordinator) for the Borough. The Act 47 Coordinator (Coordinator), prepared and filed with the Borough on August 18, 2016, the *Act 47 Financial Recovery Plan for the Borough of Mahanoy City* (2016 Recovery Plan). The Borough adopted by ordinance the 2016 Recovery Plan on September 22, 2016. The Borough subsequently adopted Recovery Plan amendments in 2021 and 2022.

Act 199 of 2014 (Act 199) amended Act 47 to among other provisions limit the amount of time a municipality may be declared a financially distressed municipality to five years from the effective date of its most recent recovery plan or recovery plan amendment. The 2016 Recovery Plan Amendment adopted by Borough Council on September 22, 2016, started the five-year limitation of the Borough's declaration as a financially distressed municipality.

In response to the COVID-19 pandemic, on May 29, 2020, the Governor of Pennsylvania signed into law Fiscal Code-Omnibus Amendments, P.L. 158, No. 23 ("Act 23 of 2020"). Act 23 of 2020 permits a municipality operating under a duly enacted recovery plan to be eligible for an 18-month extension of their recovery plan termination deadline. The Borough, in consultation with the Coordinator and DCED, subsequently amended the 2016 Recovery Plan by ordinance on February 9, 2021 (First Amendment). This First Amendment to the 2016 Recovery Plan extended the 2016 Recovery Plan's termination date from September 22, 2021, to March 22, 2023.

As part of the Act 199 process, the Coordinator is required to complete a report stating the financial condition of the municipality no later than 180 days after the beginning of the final year of distressed status. The report is required to include one of the following findings: (1) termination of distressed status; (2) municipal disincorporation; (3) fiscal emergency; or (4) a three-year exit plan. The Coordinator has prepared this Report Stating the Financial Condition of the Borough of Mahanoy City (Report) and accordingly files this Report with the Department and Borough representatives.

Financial Condition

Background

The Borough of Mahanoy City is in Schuylkill County in northeastern Pennsylvania. The Borough's estimated 2020 population was 3,499¹. The 2020 census marks a 15.9% reduction from the 2010 census which was 4,162. The reduction in population has resulted in the Borough no longer being an Entitlement municipality under the Community Development Block Grant (CDBG) program and will thus have to compete for CDBG funding. The Borough is governed pursuant to the Home Rule Charter of the Borough of Mahanoy City, which was adopted by referendum on June 2, 2020. The Borough Council is the governing body of the Borough, and all legislative powers are vested in the five elected Council members. Council appoints a Manager, who serves as the Chief Administrative Officer and is responsible for day-to-day operations of the Borough.² The current elected officials have cooperated with the Coordinator in implementing many of the initiatives included in the Borough's 2016 Plan and subsequent Recovery Plan Amendments.

The Borough provides basic municipal services to its residents. Police protection is provided on a 24/7 basis with five full-time officers budgeted, supplemented with part-time officers for additional coverage. Fire protection is provided by five volunteer fire companies. Public works functions are performed by Borough employees. A Borough Code Enforcement Officer enforces the Borough's building and property related codes. Refuse collection and recycling are provided under a contract with a private hauler. Water and sanitary sewer services are provided by independent authorities who charge customers for these services. Emergency medical services are provided by an independent association.

Operating Budget Review 2017 - 2021

The Borough experienced one operating budget deficit followed by surpluses since it adopted the 2016 Recovery Plan. Throughout the review period, the Borough transferred funds into special purpose use accounts as necessary and in compliance with the Recovery Plan. The Borough also sold surplus property. Table 1 removes the effect of these transfers (and the ARP funding) to present a net operating position of the Borough for the review period. The Borough's

¹ U.S. Census Bureau. (2020).

² *Home Rule Charter of the Borough of Mahanoy City.*

audits indicate that the Borough incurred operating budget deficits in 2016 and 2017 of \$406,375 and \$37,522, respectively. The Borough was able to turn their financial picture around with net surpluses in years 2018-2021 of \$55,318, \$170,943, \$138,054, and \$153,401 respectively.

Table 1
BOROUGH OF MAHANOID CITY
Net General Fund Revenues, Expenditures and Surplus/(Deficit)
2017 – 2021

	2017	2018	2019	2020	2021	Change 2017-2021	
	<u>Reported</u>	<u>Reported</u>	<u>Reported</u>	<u>Reported</u>	<u>Reported</u>	\$	%
Revenues	\$1,428,654	\$1,602,177	\$1,591,170	\$1,550,566	\$1,860,214	431,560	30.2
Transfers not Liquid Fuels	-11,677	0	0	0	0	11,677	-100.0
Sale of Assets	0	0	-4,750	-65,759	-3,670	-3,670	-100.0
ARPA Funds	0	0	0	0	-206,408	-206,408	-100.0
TRAN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Net Revenues	\$1,416,977	\$1,602,177	\$1,586,420	\$1,484,807	\$1,650,136	233,159	16.5
Expenditures	1,581,151	1,711,259	1,493,195	1,472,084	1,616,738	35,587	2.3
Transfers	-126,652	-164,400	-77,718	-125,331	-120,004	6,648	-5.2
TRAN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Net Expenditures	\$1,454,499	\$1,546,859	\$1,415,477	\$1,346,753	\$1,496,735	42,235	2.9
Net Surplus/(Deficit)	-\$37,522	\$55,318	\$170,943	\$138,054	\$153,401		

2022 Budget and Current Financial Condition

The Borough adopted a 2022 operating budget on December 7, 2021, with revenues of \$1,624,112 and expenditures of \$1,583,052 for an expected surplus of \$41,060. (See Table 2.) The adopted 2022 budget maintains the same property and Act 511 tax rates as in 2021. Throughout the 2022 fiscal year, the Coordinator has monitored and will continue to monitor the Borough's fiscal position by way of in-person weekly meetings with the Borough Manager, Council members and staff, review of monthly financial reports, and the preparation of monthly cash flow estimates for the Borough's use.

Budget to Actual Performance 2022

As of the date of this Report the Borough has a typical amount of accounts payable with none known to be over thirty days due and a sufficient cash balance to meet anticipated costs and employee expenses through the end of 2022. The Borough ended 2021 with \$371,337 in cash in the General Fund checking account and an additional \$206,416 in ARP funds in a separate

checking account. As of the July 2022 financial report, the borough is anticipating ending the year with a \$255,864 surplus. Current year EIT is trending higher than budgeted and employee expenditures are slightly lower than budgeted. Additionally, the \$206,416 in American Rescue Plan (ARP) lost revenue anticipated for receipt later this year was not reflected in the 2022 budget but is included under Nontax revenue in Table 2.

Table 2
BOROUGH OF MAHANOEY CITY
Estimated versus Adopted 2022 General Fund Budget
Revenue and Expenditures Excluding TRAN

<u>Revenue</u>	<u>2022</u>	<u>2022 Budget</u>	<u>Variance</u>	
	<u>Estimated</u>		<u>\$</u>	<u>%</u>
Real Estate Taxes	520,421	532,953	-12,532	-2.4
EIT	801,290	703,000	98,290	14.0
LST	10,603	10,500	103	1.0
Other Taxes	40,595	35,000	5,595	16.0
Nontax revenue (incl. ARP)	504,120	342,659	161,461	47.1
Total Revenue	1,877,028	1,624,112	252,916	15.6
<u>Expenditures</u>				
Direct Compensation	755,665	769,320	-13,655	-1.8
Benefits	195,015	210,450	-15,434	-7.3
Pension	135,823	140,218	-4,395	-3.1
Workers Comp	39,957	38,763	1,194	3.1
Unemployment Comp	5,036	6,000	-964	-16.1
Subtotal Personnel	1,131,497	1,164,750	-33,254	-2.9
Insurance	73,848	72,974	874	1.2
Utilities	12,306	10,385	1,921	18.5
Services	202,303	168,304	33,999	20.2
Supplies	83,300	66,995	16,305	24.3
Other	38,190	25,257	12,933	51.2
Grant Expense	17,173	0	17,173	0.0
Transfers	62,548	74,387	-11,839	-15.9
Total Expenditures	1,621,164	1,583,052	38,112	2.4
Surplus/(Deficit)	255,864	41,060	214,804	

Cash Position and Status of Audits

The Borough is projected to end 2022 with approximately \$350,000 in General Fund cash and approximately \$400,000 in American Rescue Plan (ARP) funds. which are held in a separate account. The Borough also has approximately \$75,000 in a separate, restricted fire escrow fund.

As of this writing, the Borough has not specifically budgeted its ARP funds. The Coordinator included the ARP fund balance in the 2022 estimated surplus. Total cash funds available to the Borough for future budgeting purposes, including the ARP funds, are more than \$700,000. (See Table 3.) Tempering the cash balances is the fact that approximately \$400,000 of the balance is one-time revenues under ARP. These funds are not expected to be available again once the funds are expended. The Borough has adopted the use of ARP funds as lost revenue and will budget appropriate expenditures with these funds, particularly for capital expenses that were not possible during the recent pandemic.

The Borough's cash position for 2022 is projected to be sufficient to meet its current and anticipated expenditures and obligations through the end of FY 2022.

The Borough receives a yearly line of credit from a local bank in the event it experiences a cash shortfall during the first quarter. For both 2021 and 2022, the Borough did not utilize this line of credit to pay expenses. The Borough has maintained its employer contribution of 11 percent of payroll to the non-uniform defined contribution pension plan throughout 2022.

Table 3
BOROUGH OF MAHANOEY CITY
Cash Flow Projections—Quarterly
As of July 2022

	Actual 1st Qtr	Actual 2nd Qtr	Est 3rd Qtr	Est 4th Qtr
Cash Balance Beginning of Month	371,337	373,778	541,820	545,409
Surplus/Deficit	-74,251	216,543	283,368	-169,796
Increase/(Decrease) in Payables	36,244	-17,895	7,607	-25,956
Other Items Affecting Cash	40,447	-30,606	-287,385	0
GF Cash Balance End of Month	373,778	541,820	545,409	349,657
ARP Cash Balance	206,418	206,423	412,835	412,835

The Borough is not current on its financial audits having only just received its 2019 financial audit in July 2022. The Borough has engaged a new auditing firm that has begun the 2020 and 2021 audits, and the Coordinator anticipates completion of both in 2023.

Collective Bargaining

The Borough currently has 13 budgeted employee positions. The Borough's managerial, supervisory, and confidential employees are "at will" employees. Police and Public Works

department employees are represented by two unions and are under collective bargaining labor contracts with the Borough.

North Schuylkill Lodge No. 25 of the Fraternal Order of Police (FOP) represents the Borough's uniformed police officers. The current Borough and FOP collective bargaining agreement term began on January 1, 2020 and is due to expire on December 31, 2022. Lodge No. 25 notified the Borough in June that it intended to initiate collective bargaining pursuant to Act 111 of 1968 for the contract period beginning January 1, 2023. The Borough provided a response to this notice in September 2022.

Teamsters Local Union No. 429 represents the Borough's public works employees. The Borough's current collective bargaining agreement with Local Union No. 429 began on January 1, 2022 and expires December 31, 2026. This contract was negotiated in late 2021 and early 2022. The Coordinator reviewed the agreement for compliance with the Borough's adopted 2016 Recovery Plan as amended in June 2021 and February 2022 and in a letter dated February 25, 2022, concluded that the agreement complied with the Borough's adopted Recovery Plan.

Long Term Debt

The Borough's outstanding principal long-term debt as of August 31, 2022, was \$516,284. The Borough is currently expected to make \$108,056 in long-term debt service payments of principal and interest in 2022. The Borough utilizes a Debt Reduction fund and levies a millage of 5.0 mills to fund debt service at a level of \$123,000.

In 2009, the Borough financed a 2009 General Obligation Note (2009 GO), the proceeds of which were paid to MEM to be used for streetlight purchase and capital improvements. MEM subsequently went out of business without satisfying the contractual obligation and was charged with fraud by law enforcement. However, the Borough was still required to satisfy the 2009 debt. In 2015, the Borough refinanced the 2009 GO with a 2015 General Obligation Note for \$342,000.

Table 4
BOROUGH OF MAHANOEY CITY
Debt Service and Outstanding Balances
2022 - 2035

<u>Debt</u>	<u>Issued</u>	<u>Maturity</u>	<u>Original Amount</u>	<u>Annual Debt Service</u>	<u>Outstanding Balance</u>
Water Authority	2007	2027	\$154,250	\$8,508	\$42,174
USDA	2014	2035	56,000	3,948	38,759
"MEM" GO Note, Series 2015	2015	2022	130,000	22,176	0
DCED Act 47	2016	2027	800,000	80,000	400,000
USDA	2021	2026	47,500	10,056	35,351

The Borough paid off the MEM loan with First National Bank with a payoff value of \$49,120.56 on December 10, 2021. The Borough used \$39,000 that was transferred from the General Fund to the Debt Reduction Fund with the remainder of funds coming from the Debt Reduction Fund. The early retirement of this debt was a part of the Borough's Recovery Plan and was intended to pay off the MEM loan before 2023. The Borough was able to pay off the MEM loan a year early due to higher than projected revenue from the Act 47 and home rule enhanced earned income tax.

Pension Obligations

The Borough provides and administers two pension funds for Borough employees, a police defined benefit pension fund and a non-uniform defined contribution pension fund. The Borough's Aggregate Pension Fund was determined to be Not Distressed³ at a 90 percent funded ratio. The Auditor General Pension Distress report of August 31, 2022 listed January 1, 2021 valuations of assets (\$1,929,334) and liabilities (\$2,146,373).

The police pension fund is a defined benefit plan and as of January 2021 had 10 covered members. The Borough's non-uniform pension fund is a defined contribution plan with six active employees and as of January 1, 2019 had equal assets and liabilities of \$344,543 and is fully funded. It is expected that the Borough will pay its 2022 police pension Minimum Municipal Obligation of \$106,789 in November 2022. The 2023 Minimum Municipal Obligation

³ 2021 Distress Score Report, Pennsylvania Auditor General

for the defined benefit pension is \$108,108. The Borough has maintained its employer contribution of 11 percent of payroll to the non-uniform defined contribution pension plan throughout 2022.

Long Term Comprehensive Planning and Capital Budgeting

The Borough is implementing an Act 47 funding contract to develop a Comprehensive Plan with an examination of local zoning options as well as a multi-municipal planning approach. As of the time of this report, the Borough will be meeting with neighboring municipalities of Mahanoy and Ryan Townships to explore a multi-municipal plan. The Borough is also implementing a \$300,000 blight remediation grant to demolish and prepare for development of an important corner of the Borough's main throughfare.

An initiative of the Recovery Plan and a requirement of the Home Rule Charter provides for the development and annual adoption by October 1 of a multi-year Capital Plan and Budget. The Borough in concert with its Engineer adopted an initial Capital Plan and Budget in October 2021. The Manager with the assistance of the Engineer, prepared an updated draft Capital Plan and Budget and submitted it to Council for review on July 29. Council currently has the Capital Plan and Budget under review and anticipates its adoption by the end of September.

Financial Projections 2023-2027

The Coordinator's baseline operating budget projections for the next five years projects the Borough's baseline operating expenditures will increase annually on average of 2.3 percent or 9.4 percent for the period, while the baseline operating revenue is projected to increase slightly by 0.6 percent annually or 2.4 percent for the five-year projection. Consequently, the Borough is projected to incur manageable baseline operating budget deficits for four of the next five years in the absence of corrective revenue or expenditure adjustments. The current fund balance should be sufficient to sustain the Borough, as they evaluate expenditure savings and revenue sources over the next several years.

Table 5
BOROUGH OF MAHANOID CITY
Projected General Fund Revenues, Expenditures and Surplus/(Deficit)
2023 – 2027

	2023 <u>Projected</u>	2024 <u>Projected</u>	2025 <u>Projected</u>	2026 <u>Projected</u>	2027 <u>Projected</u>	Change 2023-2027 \$	%
Revenues							
Real Estate Taxes	\$519,380	\$518,341	\$517,304	\$516,270	\$515,237	-4,143	-0.8
EIT	785,483	795,302	805,243	815,308	825,500	40,017	5.1
Real Estate Transfer Tax	16,000	16,000	16,000	16,000	16,000	0	0.0
Occupation Tax	4,888	4,888	4,888	4,888	4,888	0	0.0
Local Services Tax	10,603	10,603	10,603	10,603	10,603	0	0.0
Per Capita Taxes	6,067	6,067	6,067	6,067	6,067	0	0.0
Other 511 Taxes	0	0	0	0	0	0	0.0
Penalties & Interest	0	0	0	0	0	0	0.0
License & Permits	29,107	29,107	29,107	29,107	29,107	0	0.0
Fines	21,421	21,421	21,421	21,421	21,421	0	0.0
Interest, Rents & Royalties	158	158	158	158	158	0	0.0
Intergovernmental Rev	97,902	97,902	97,902	97,902	97,902	0	0.0
Charges for Services	80,139	80,139	80,139	80,139	80,139	0	0.0
Sanitation	0	0	0	0	0	0	0.0
Culture & Recreation	225	225	225	225	225	0	0.0
Miscellaneous Revenues	7,785	7,785	7,785	7,785	7,785	0	0.0
Interfund Transfers	32,219	32,864	33,521	34,191	34,875	2,656	0.0
Loan Proceeds	0	0	0	0	0	0	0.0
TRAN	0	0	0	0	0	0	0.0
Total Revenue	1,611,379	1,620,803	1,630,365	1,640,066	1,649,909	38,530	2.4
Expenditures							
General Government	416,990	426,474	435,427	443,801	452,342	35,353	8.5
Police	446,671	455,615	464,642	473,749	483,038	36,367	8.1
Fire	57,450	58,062	58,671	59,277	59,895	2,445	4.3
Other Public Safety	500	500	500	500	500	0	0.0
Code	61,056	61,997	62,951	63,918	64,905	3,849	6.3
PW Highways	264,703	269,831	275,024	280,281	285,644	20,941	7.9
Sanitation	0	0	0	0	0	0	0.0
Culture & Rec	9,578	9,820	10,040	10,235	10,434	856	8.9
Employee Benefits	243,358	254,920	267,082	279,876	293,336	49,978	20.5
Insurance	55,403	55,403	55,403	55,403	55,403	0	0.0
Miscellaneous	11,883	11,883	11,883	11,883	11,883	0	0.0
Transfers	24,548	24,548	24,548	24,548	24,548	0	0.0
TRAN Principal	0	0	0	0	0	0	0.0
TRAN Interest	0	0	0	0	0	0	0.0
Total Expenditures	1,592,140	1,629,054	1,666,172	1,703,473	1,741,929	149,789	9.4
Surplus/(Deficit)	19,239	-8,251	-35,807	-63,407	-92,020		

Finding

It is the Coordinator's finding that the Borough has made noteworthy progress on a number of fronts since 2016 that had initially led to the declaration of distress. Borough Council and management have actively, cooperatively, and proactively engaged the Coordinator over the past five years and have proceeded with the implementation of many of the initiatives included in the Borough's 2016 Recovery Plan and subsequent amendments. The Borough has avoided financial crises, has completed 2021 with a balanced operating budget and is anticipated to complete 2022 with a balanced operating budget.

It is the opinion of the Coordinator that present and projected conditions within the municipality warrant a termination in status in accordance with section 255.1 of the Municipalities Financial Recovery Act of Jul. 10, 1987, P.L. 246, No. 47. The following paragraphs shall address each of the factors set forth in section 255.1(c).

Factor (1)

Operational deficits of the municipality have been eliminated and the financial condition of the municipality, as evidenced by audited financial statements prepared in accordance with generally accepted accounting principles and projections of future revenues and expenditures demonstrates a reasonable probability of future balanced budgets absent participation in this act.

The Borough provided the Coordinator with completed annual audits for the years 2017-2019. For fiscal years 2020 and 2021, the Coordinator utilized financial statements provided by the Borough. For 2022, the Coordinator analyzed the Borough's adopted 2022 operating budget and the Coordinator's database of Borough financials to create 2022 estimates.

During the period 2017 – 2021 the Borough experienced one year of deficits and four years of surpluses. The Borough's reported financial statements show that the Borough experienced an excess of expenditures over revenues (deficit) of \$37,522 in 2017. The Borough's 2018 through 2021 reported financial statements evidence that the Borough experienced an excess of revenues (surplus) over expenditures for each year. The Borough's 2018 reported financial statements show an excess of revenues over expenditures resulting in a surplus of \$55,318. The Borough's 2019 reported financial statements showed that the Borough experienced an excess of revenues over expenditures resulting in an operating surplus of \$170,943. For 2020 and 2021, the Borough's unaudited financial statements were examined for

this analysis. The Borough experienced operating surpluses of \$138,054 in 2020 and \$153,401 in 2021.

Based upon the Borough's adopted 2022 budget and the Coordinator's end of year estimate, the Borough is estimated to incur a surplus of \$255,864 in 2022.

Note that the Coordinator will analyze the probability of future Borough revenues and expenditures producing future balanced budgets absent participation in this act in the **Factor 4** projections of Borough revenues and expenditures.

Factor (2)

Obligations issued to finance the municipality's debt have been retired, reduced or reissued in a manner that has adequately refinanced outstanding principle [sic] and interest and has permitted timely debt service and reasonable probability of continued timely debt service absent participation in this act.

The Borough's 2022 debt service is budgeted at \$108,056. Throughout the recovery period the Borough has made timely debt service payments. The Borough was able to retire one debt (MEM loan) a year early in 2021. Additionally, the Borough will be retiring a large portion of its outstanding debt before 2028. The Borough will continue to levy a debt service millage through that time. The eventual reduction in debt service will allow the re-purposing of the special debt millage to one of general purpose. This flexibility in millage will allow the Borough to avoid deficits should they arise. The Coordinator projects that the Borough's current financial condition represents a reasonable probability of continued timely debt service absent participation in the Act.

Factor (3)

The municipality has negotiated and resolved all claims or judgments that would have placed the municipality in imminent jeopardy of financial default.

The Coordinator is not aware of any significant current or pending claims or judgements against the municipality.

Factor (4)

The reasonably projected revenues of the municipality are sufficient to fund ongoing necessary expenditures, including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services. Projections of revenues shall include any anticipated tax or fee increases to fund ongoing expenditures for the first five years after a termination of distressed status.

The Coordinator projects that the Borough will incur operating deficits during the 2023-2027 projection period with the exception of 2023, where a modest surplus of \$19,238 is projected. The lack of inherent growth in the Borough's real property tax revenue and only slight growth in the Borough's earned income tax revenue coupled with annual projected expenditure growth over 2.0 percent will cause the Borough to experience operating budget deficits.

Table 6
BOROUGH OF MAHANOEY CITY
Baseline Revenue, Expenditures, Surplus/(Deficit) Projection Summary
2023 - 2027

	2023	2024	2025	2026	2027	Change 2023-2027	
	<u>Projected</u>	<u>Projected</u>	<u>Projected</u>	<u>Projected</u>	<u>Projected</u>	\$	%
Revenues	\$1,611,379	\$1,620,803	\$1,630,365	\$1,640,066	\$1,649,909	38,530	2.4
Expenditures	<u>1,592,140</u>	<u>1,629,054</u>	<u>1,666,172</u>	<u>1,703,473</u>	<u>1,741,929</u>	<u>149,789</u>	<u>9.4</u>
Surplus/(Deficit)	19,238	-8,251	-35,808	-63,407	-92,021		

Offsetting these projected deficits are the Borough's estimated end of year general fund cash balance as well as the 2021 and 2022 American Rescue Plan replacing lost revenue from the 2020-21 COVID pandemic restrictions.

It is the Coordinator's opinion that the Borough may eliminate the projected operating budget deficits through tax or fee increases or expenditure reductions. It is also the opinion of the Coordinator that the opportunity for expenditure reduction over the next five years is limited except in the debt service category. By the final projection year of 2027, the Borough's debt service will be reduced by more than \$98,000 a year. The Borough funds this debt service through a tax levy of 5 mills annually. This restricted debt service millage was budgeted at approximately \$86,000 for 2022 current year receipts and \$42,000 for delinquent prior years receipts. The Coordinator recommends that the Borough begin reducing the annual debt service millage and converting the millage to general fund millage starting in 2024. Further, the

Borough's Home Rule Charter provides for the establishment of an Operating Reserve Fund to address fiscal emergencies and to counterbalance a shortfall in revenues and/or unanticipated increases in expenditures. This Fund has been established and the balance as of August 31, 2022, is \$48,002. The Borough's current general fund cash balance, the reallocation of debt service millage and its use of ARP funds for lost revenue will provide sufficient liquidity to offset the projected operating deficits without further increasing total millage through the projection period.

Table 7
Available Restricted* and Unrestricted**
Balances
Borough Banking Accounts
As of August 18, 2022

Library*	\$ 28,193
Street Lighting*	72,539
Sinking (Capital)**	182,452
Molly Maguire**	890
Debt Reduction*	77,674
Liquid Fuels*	230,010
Blight Demo**	68,470
SDBG **	7,981
Payroll*	22,294
General Fund**	478,863
Sanitation**	24,195
Local Grants Account*	2,159
East End Park*	4,695
Kaier's Park*	5,844
Fire Fund Millage*	11,519
Operating Reserve**	48,002
American Rescue Plan**	206,428
Grand Total	\$1,472,209

Fiscal Emergency

As previously mentioned, DCED has charged the Coordinator with examining the conditions of the Borough to determine whether a fiscal emergency exists in the Brough. According to the relevant section of Act 47, the Governor determines a fiscal emergency exists if the distressed municipality:

(a) **FISCAL EMERGENCY.** —The Governor determines a fiscal emergency exists if the distressed municipality:

- (1)(i) is insolvent or is projected to be insolvent within 180 days or less; or
- (ii) is unable to ensure the continued provision of vital and necessary services.

53 P.S. §11701.602(a)(1).

A distressed municipality is “insolvent” if it is unable to meet all financial obligations as they become due, including payment of debt obligations. *53 P.S. §11701.601.* “Vital and necessary services” is defined as “basic and fundamental municipal services, including any of the following: (1) Police and fire services (2) Ambulance and rescue services (3) Water supply and distribution (4) Wastewater services (5) Refuse collection and disposal (6) Snow removal (7) Payroll and pension obligations (8) Fulfillment of payment of debt obligations or any other financial obligations.” *Id.*

The Coordinator’s analysis of the Factors to Consider to Rescind a Distress Determination has determined that the Borough has been able to meet all of its financial obligations, including debt service, since the Borough’s adoption of the 2016 Exit Plan and subsequent Amendments. In addition, the Coordinator’s cash flow estimates project that the Borough will remain solvent throughout 2022, enabling the Borough to meet its current financial obligations as they come due, including its 2022 debt service and pension payments.

	Actual	Actual	Est	Est
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
Cash Balance Beginning of Month	371,337	373,778	541,820	545,409
Surplus/Deficit	-74,251	216,543	283,368	-169,796
Increase/(Decrease) in Payables	36,244	-17,895	7,607	-25,956
Other Items Affecting Cash	40,447	-30,606	-287,385	0
GF Cash Balance End of Month	373,778	541,820	545,409	349,657
ARP Cash Balance	206,418	206,423	412,835	412,835

In its adopted 2022 operating budget, the Borough has appropriated funds to provide many of the vital and necessary services enumerated in §11701.601 such as police and public works services, snow removal, payroll and pension obligations and the fulfillment of debt and other financial obligations. There is no evidence from the Borough or otherwise available to the Coordinator that, as of the writing of this Act 47 Coordinator’s Financial Condition Report, the Borough is unable to ensure the continued provision of vital and necessary services. Thus, in the

opinion of the Coordinator, the Borough does not meet the criteria for the Governor to declare a fiscal emergency.

Recommendation

The Coordinator has reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the Borough a distressed municipality; and also, the statutory criteria of whether to issue a determination of fiscal emergency in the Borough. It is the recommendation of the Coordinator that based upon a review of the totality of the factors included in §11701.255.1(c), substantial evidence supports an affirmative determination by the Secretary to issue a determination to rescind the order declaring the Borough of Mahanoy City a distressed municipality.

Although the Borough has experienced a mix of operating budget surpluses and deficits over the past six years, the Borough has achieved many successes that will assist in sustaining the Borough's financial condition into the future not the least of all was the referendum approving a Home Rule charter form of government.

The Coordinator projects that the Borough will experience operating deficits in the future as the rate of the Borough's expenditure growth outpaces the rate of the Borough's revenue growth. It remains the Coordinator's opinion that the Borough can manage the projected operating budget deficits and sustain a sufficient cash flow throughout future fiscal years by incrementally changing the debt service millage to general fund millage and/or by increasing the Borough's earned income tax rate.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. At this time, it is the Coordinator's opinion that the Borough of Mahanoy City is able to meet all of its financial obligations as they come due. It is also the Coordinator's opinion that the Borough is presently able to provide vital and necessary services to its residents. Therefore, for the reasons stated above, it is the recommendation of the Coordinator that the Secretary of DCED issue a determination rescinding the order declaring the Borough of Mahanoy City a distressed municipality as defined by Act 47 of 1987, as amended.

EXHIBIT B

NOTICE

NOTICE IS HEREBY GIVEN that the Commonwealth of Pennsylvania, Department of Community and Economic Development has scheduled a public hearing to receive testimony presented on behalf of the Borough of Mahanoy City, Schuylkill County, Pennsylvania with respect to the recommendation from the Act 47 Coordinator to consider a termination of the Borough's Act 47 determination pursuant to the Municipalities Financial Recovery Act, Act 47 of 1987 as amended.

The hearing on the request will be held on November 29, 2022, at 5:00 p.m., in the Mahanoy City Borough Hall, 239 East Pine Street, Mahanoy City, PA 17948 before a hearing officer duly appointed by the Department. The public is invited to attend. Those individuals requiring special accommodations to attend the hearing should contact the Department. For further information contact James Rose, Local Government Policy Specialist, at (570) 550-2380.

EXHIBIT C

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

* * * * *

IN RE: ACT 47 EXIT HEARING

* * * * *

BEFORE: ANDREW SHEAF, Hearing Officer
Theodore Ritsick, Member
Tree Zuzzio, Member
Kelly Robertson, Member
Lisa Burns, Member

HEARING: Tuesday, November 29, 2022
5:06 p.m.

LOCATION: Mahanoy City Borough
239 East Pine Street
Mahanoy City, PA 17948

WITNESSES: Michael Connolly, John Fatula, Gerald
Cross, James Rose

Reporter: Cory Ruda
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I N D E X

DISCUSSION AMONG PARTIES

4 - 15

CERTIFICATE

16

E X H I B I T S

		Page
<u>Number</u>	<u>Description</u>	<u>Offered</u>
Ex. 1	Cross Statement	10

P R O C E E D I N G S

HEARING OFFICER: Thank you. It is now 5:06 on November 29th, 2022. I call to order this administrative public hearing, which is being held pursuant to Section 255.1(a) of the Municipalities Financial Recovery Act, also known as Act 47.

The sole purpose of this hearing is to receive evidence and testimony regarding the potential termination of Mahanoy City Borough's status as a financially-distressed municipality. We cannot respond to any questions or challenges at this hearing.

My name is Andrew Sheaf, Local Government Policy Manager for the Department of Community and Economic Development. And I will be serving as the Hearing Officer today. For the record, this hearing was advertised in the Republican Herald on November 21st, 2022 and written notice was provided to the Borough Manager, the Municipal Solicitor, and each member of the governing body of the municipality prior to the meeting.

As background for the members of the

1 public with us today, on November 4th, 2022, the
2 Recovery Coordinator for the Borough of Mahanoy
3 City, the Pennsylvania Economy League, submitted a
4 final report in accordance with Section 255 of Act
5 47. The coordinator's report reviewed the Borough's
6 financial condition in conjunction with statutory
7 factors listed in Section 255.1(c) of Act 47 and
8 concluded that the Borough's status as a stressed
9 municipality should be terminated.

10 Per Section 255.1(a) of Act 47, the
11 Department is required to hold a public hearing
12 within 30 days of receiving the final coordinator's
13 report. Once again, the sole purpose of this
14 hearing is to receive evidence and testimony
15 regarding the potential termination of Mahanoy City
16 Borough's status as a financially-distressed
17 municipality.

18 Individuals representing the Borough,
19 the Borough's Act 47 coordinator, and the Governor's
20 Center for Local Government Services will be
21 providing comments tonight. After the Department
22 has received comments from those parties, I will
23 invite any other interested party in the audience to
24 provide evidence or testimony. Please note, there
25 is a sign-in sheet that has been circulated to

1 verify attendance at this hearing today. I will ask
2 that all in attendance sign the sheet even if you
3 are not providing comments. If you change your mind
4 later and do decide you want to speak, please know
5 that all witnesses will be required to be sworn in
6 by a stenographer prior to testifying.

7 At this time I call Council president,
8 Michael Connolly, to the witness stand. Which is
9 wherever you feel comfortable. Wherever you feel
10 comfortable, sir.

11 COURT REPORTER: All right, sir.

12 If you could state your last name for
13 me, please.

14 MR. CONNOLLY: Connolly,
15 C-O-N-N-O-L-L-Y.

16 COURT REPORTER: Thank you very much.
17 If you'll raise your right hand, please.

18 ---

19 MICHAEL CONNOLLY,
20 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
21 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
22 FOLLOWS:

23 ---

24 COURT REPORTER: Thank you very much,
25 sir.

1 HEARING OFFICER: Go ahead.

2 MR. CONNOLLY: Okay.

3 I would just like to say that firstly,
4 I agree with the coordinator it's time we terminate
5 our status. I also would like to publically thank
6 Pennsylvania Economy League for everything they've
7 done for the Borough and the city. I'm Borough
8 Council member for three years now. When I came, I
9 was part of actually putting a lot of this stuff
10 together, and we were in a lot of hurt. And Gerry,
11 Patty, and also Matt is no longer with us. Really
12 worked, and they worked tirelessly to get us in the
13 position we are right now.

14 We're in a very, very good position.
15 And I feel that going forward that, you know, in
16 this position we'll be able to hopefully stay where
17 we're at, you know, from this point on, but thank
18 you for all of your hard work. We really appreciate
19 it.

20 HEARING OFFICER: Thank you. I now
21 call Borough Manager, John Fatula, to the witness
22 stand.

23 COURT REPORTER: John, if you could
24 spell your last name for me, please.

25 MR. FATULA: Fatula, F-A-T-U-L-A.

1 COURT REPORTER: Thank you very much.
2 If you would raise your right hand.

3 --

4 JOHN FATULA,
5 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
6 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
7 FOLLOWS:

8 ---

9 HEARING OFFICER: Thank you very much.

10 MR. FATULA: I - I've only been here a
11 little less than a year through the ending of this,
12 but from the time that I've been here and seen, you
13 know, the financial condition has vastly improved
14 since they went into Act 47. And for reviewing, you
15 know, going through a prior year and financial
16 records. You know, progress has been steady and I
17 also agree with the final recommendation. The
18 Borough's in a good financial position now, and I
19 truly believe that it will continue to be in such.

20 HEARING OFFICER: Thank you. Thank
21 you. I'd next ask Gerry Cross, Recovery
22 Coordinator, to provide testimony.

23 MR. CROSS: Thank you. And good
24 evening, I'm going to read my statement from the
25 coordinator's point of view of the report.

1 Good evening, Mr. Sheaf. My name is
2 Gerald Cross, and I represent the Pennsylvania
3 Economy League, the appointed Act 47 coordinator for
4 the Borough of Mahanoy City.

5 Pursuant to the Commonwealth of
6 Pennsylvania's Municipalities Financial Recovery
7 Act, which is Act 47 of 1987 as amended, the
8 Borough of Mahanoy City was declared a
9 financially- distressed municipality by order of the
10 Secretary of the Department of Community and
11 Economic Development on February 18th, 2016.

12 The Pennsylvania Economy League was
13 subsequently appointed the Act 47 Coordinator for
14 the Borough. The Act 47 Coordinator prepared and
15 filed with the Borough on August 18th, 2016 the Act
16 47 Financial Recovery Plan for the Borough of
17 Mahanoy City. The Borough adopted by ordinance the
18 2016 Recovery Plan on September 22nd, 2016. The
19 Borough subsequently adopted Recovery Plan
20 amendments in 2021 and 2022. The First Amendment to
21 the 2016 Recovery Plan extended the 2016 Recovery
22 Plan's termination date from September 22nd, 2021 to
23 March 22nd, 2023.

24 As part of this Act 47 process, the
25 Coordinator is required to complete a report stating

1 the financial condition of the municipality no later
2 than 280 days after the beginning of the final year
3 of distress status. The report is required to
4 include one of the following findings: one, a
5 termination of distress status, finding two,
6 municipal disincorporation; finding three, fiscal
7 emergency, or four, a three-year exit plan. The
8 Coordinator prepared and filed with the Borough a
9 Financial Condition Report on November 4th, 2022
10 stating the financial condition of the Borough of
11 Mahanoy City. By reference, I'm asking that a copy
12 of this Report be included in the official record of
13 this hearing.

14 ---

15 (Whereupon, Hearing's Exhibit 1, Cross Statement,
16 was marked for identification.)

17 ---

18 MR. CROSS: The Coordinator reviewed
19 the statutory factors necessary to make a
20 determination of whether to request a rescission of
21 the Order declaring the Borough a distressed
22 municipality. It is the recommendation of the
23 Coordinator that, based upon a review of the
24 totality of the factors included in the Report,
25 substantial evidence supports an affirmative

1 determination by the Secretary of the Department of
2 Community and Economic Development to issue a
3 determination rescinding the Order declaring the
4 Borough of Mahanoy City a distressed municipality.

5 Although the Borough has experienced a
6 mix of operating budget surpluses and deficits over
7 the past six years, the Borough has achieved many
8 successes that will assist in sustaining the
9 Borough's financial condition into the future, not
10 the least of which was the referendum approving a
11 Home Rule charter form of government.

12 The Coordinator projects that the
13 Borough will experience operating deficits into the
14 future as the rate of the Borough's expenditure
15 growth outpaces the rate of the Borough's revenue
16 growth. It remains the Coordinator's opinion that
17 the Borough can manage the projected operating
18 budget deficits and sustain a sufficient cash flow
19 throughout future fiscal years by incrementally
20 increasing the general fund millage and/or the
21 Borough's earned income tax rate.

22 Act 47 provides specific guidance for
23 the Coordinator to evaluate when making its
24 recommendation to the Secretary of DCED. At this
25 time it is the Coordinator's opinion that the

1 Borough of Mahanoy City can meet all its financial
2 obligations as they come due. It is also the
3 Coordinator's opinion that the Borough is presently
4 able to provide vital and necessary services to its
5 residents. Therefore, for the reasons stated today,
6 it is the recommendation of the Coordinator that the
7 Secretary of the Department of Community and
8 Economic Development issue a determination to
9 rescind the Order declaring the Borough of Mahanoy
10 City a distressed municipality as defined by Act 47
11 of 1987. Thank you.

12 HEARING OFFICER: Thank you. Thank
13 you, Mr. Cross. Our next - I would next ask Jim
14 Rose, Local Government Policy Specialist to DCED, to
15 provide some comments.

16 MR. ROSE: I'm in the witness stand.

17 COURT REPORTER: Sir, could you raise
18 your right hand?

19 ---

20 JAMES ROSE,
21 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND
22 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS
23 FOLLOWS:

24 ---

25 COURT REPORTER: Thank you.

1 MR. ROSE: Thank you. Thank you,
2 Andrew. My name is Jim Rose as Andrew said, and I'm
3 a Local Government Policy Specialist with DCED. So
4 I've been working with this great community here
5 since the beginning. And in fact, I was working
6 with them before they were declared a distressed
7 community. Because the Borough had many, many, many
8 financial problems, as all of you know. And the
9 Council was so cooperative in approaching all the
10 recommendations from the Pennsylvania Economy League
11 and trying to implement them to make sure that they
12 could turn around the way that the Borough does
13 business.

14 And at this point the Borough is
15 finally financially stable. But that's because of
16 all of you and your predecessors. Council making
17 the right decisions. They've hired an excellent
18 manager. They have implemented lots of policies and
19 procedures that will help them to be stable not just
20 today, not just in March, but well into the future.
21 And I congratulate all of you for all of the hard
22 work that you've done and all of the good work and
23 time - I'm looking at you two again. My head
24 doesn't turn that far.

25 It's just - it's just very good to

1 see. Often times in our line of work we don't get
2 to see a turnaround the way Mahanoy City has turned
3 around. I mean, you implemented a Home Rule form of
4 government that works. And you've done a great job,
5 and I believe as long as you continue working in the
6 same direction that you're going in now that you'll
7 be good from here on out. So congratulations to
8 Mahanoy City, and congratulations to PEL for working
9 so closely and providing the support that was
10 necessary and that was useful.

11 I do very much strongly recommend that
12 the - that the determination be rescinded, that they
13 get out of 47. Thank you, Mr. Sheaf.

14 HEARING OFFICER: Thank you, Mr. Rose.
15 I would now like to invite any other interested
16 party in the audience who would like to present
17 testimony to please come up to be sworn in by the
18 stenographer.

19 Seeing no other witnesses, I would
20 like to take this opportunity to thank those in
21 attendance and those who provided evidence and
22 testimony at today's administrative public hearing.
23 Today's evidence and testimony will be presented to
24 Acting Secretary Neil Weaver for his final
25 determination as to whether Mahanoy City Borough's

1 status as a financially-distressed municipality
2 should be terminated.

3 Pursuant to Section 255.1(b) of Act
4 47, the determination will be issued within 90 days
5 of today's hearing. Thank you, and this hearing
6 will now be adjourned at 5:18.

7 * * * * *

8 HEARING CONCLUDED AT 5:18 P.M.

9 * * * * *

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1 CERTIFICATE

2 I hereby certify that the foregoing proceedings,
3 hearing held before Hearing Officer Sheaf, was
4 reported by me on November 29, 2022 and that I, Cory
5 Ruda, read this transcript and that I attest that this
6 transcript is a true and accurate record of the
7 proceeding.

8 Dated the 13 day of December, 2022

9
10 
11 Court Reporter

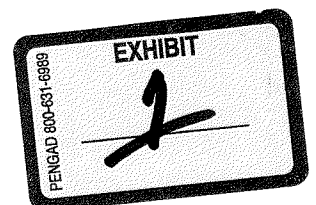
12 Cory Ruda
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Good evening, Mr. Chapman

My name is Gerald Cross and I represent the Pennsylvania Economy League, the appointed Act 47 Coordinator for the Borough of Mahanoy City.

Pursuant to the Commonwealth of Pennsylvania's Municipalities Financial Recovery Act, Act 47 of 1987, as amended, (Act 47) the Borough of Mahanoy City (Borough) was declared a financially distressed municipality by order of the Secretary of the Department of Community and Economic Development (DCED) on February 18, 2016. The Pennsylvania Economy League (PEL) was subsequently appointed the Act 47 Coordinator (Coordinator) for the Borough. The Act 47 Coordinator (Coordinator), prepared and filed with the Borough on August 18, 2016, the *Act 47 Financial Recovery Plan for the Borough of Mahanoy City*. The Borough adopted by ordinance the 2016 Recovery Plan on September 22, 2016. The Borough subsequently adopted Recovery Plan amendments in 2021 and 2022. This First Amendment to the 2016 Recovery Plan extended the 2016 Recovery Plan's termination date from September 22, 2021, to March 22, 2023.

As part of the Act 47 process, the Coordinator is required to complete a report stating the financial condition of the municipality no later than 180 days after the beginning of the final year of distressed status. The report is required to include one of the following findings: (1) termination of distressed status; (2) municipal disincorporation; (3) fiscal emergency; or (4) a three-year exit plan. The Coordinator prepared and filed with the Borough a *Financial Condition Report* (Report) on November 4, 2022 stating the Financial Condition of the Borough of Mahanoy City. By reference, I am asking that a copy of the Report be included in the official record of this hearing.



The Coordinator reviewed the statutory factors necessary to make a determination of whether to request a rescission of the order declaring the Borough a distressed municipality. It is the recommendation of the Coordinator that, based upon a review of the totality of the factors included in the Report, substantial evidence supports an affirmative determination by the Secretary of the Department of Community and Economic Development to issue a determination rescinding the order declaring the Borough of Mahanoy City a distressed municipality.

Although the Borough has experienced a mix of operating budget surpluses and deficits over the past six years, the Borough has achieved many successes that will assist in sustaining the Borough's financial condition into the future not the least of which was the referendum approving a Home Rule charter form of government.

The Coordinator projects that the Borough will experience operating deficits in the future as the rate of the Borough's expenditure growth outpaces the rate of the Borough's revenue growth. It remains the Coordinator's opinion that the Borough can manage the projected operating budget deficits and sustain a sufficient cash flow throughout future fiscal years by incrementally increasing the general fund millage and/or the Borough's earned income tax rate.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. At this time, it is the Coordinator's opinion that the Borough of Mahanoy City can meet all its financial obligations as they come due. It is also the Coordinator's opinion that the Borough is presently able to provide vital and necessary services to its residents. Therefore, for the reasons stated today, it is the recommendation of the Coordinator that the Secretary of DCED issue a determination rescinding the order declaring the Borough of Mahanoy City a distressed municipality as defined by Act 47 of 1987, as amended.