



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

IN RE:	:	TERMINATION OF DISTRESSED
	:	STATUS UNDER SECTION 255.1
BOROUGH OF COLWYN	:	OF THE MUNICIPALITIES
DELAWARE COUNTY	:	FINANCIAL RECOVERY ACT

DEPARTMENTAL DETERMINATION AND ORDER

1. On May 6, 2015, the Borough of Colwyn (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 December 16, 2021, Keystone Municipal Solutions, Inc., 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 January 13, 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 entered Act 47 distressed status with nearly \$1 million in unresolved past due liabilities. From 2018-2021, the Borough experienced deficits and, consequently, a declining fund balance while addressing outstanding liabilities. Disciplined operational and financial management has enabled the Borough to address its outstanding liabilities while also avoiding additional obligations resulting from mismanagement. The deficits were primarily incurred to resolve obligations that were “one-time” rather than recurring in nature, which required the use of fund balance, but created budgetary relief for the future. Consequently, the Borough’s audited financial statements demonstrate a reasonable probability of the elimination of past deficits and progress toward future balanced budgets outside of Act 47.
6. With regard to the second factor, the Borough’s only outstanding debt obligation is its loan from DCED issued in 2016 shortly after the Borough adopted its initial Recovery Plan. The original loan amount was \$530,000 with a 0% interest rate and a 2026 maturity. The Borough has not missed a debt service payment since the loan was issued. As of the writing, the Borough does not have plans for any new debt obligations to be incurred in 2021 or 2022. Given all of this evidence, there is a reasonable probability that the Borough should be able to pay its debt service through the 2026 DCED loan maturity.
7. With regard to the third factor, the Borough has negotiated and resolved all claims and judgments that would have placed the Borough in imminent jeopardy of financial default. There are currently no pending lawsuits or claims against the Borough, and the Borough has remained in full compliance with any outstanding judgments against it.
8. With regard to the fourth factor, the Coordinator projects that the Borough will achieve budget surpluses throughout the 2022-2026 projection period. The reasonable 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.

AND NOW, this the 8th day of April 2022, 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 Colwyn, Delaware County, as a financially distressed municipality under the Municipalities Financial Recovery Act, Act 47 of 1987, as amended, will be terminated on the 29th day of April 2022.

By:



Neil R. Weaver
Acting DCED Secretary

BOROUGH OF COLWYN

DELAWARE COUNTY

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

HEARING HELD: January 13, 2022

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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 COLWYN

FINDING OF FACTS

A public hearing was held in the Borough of Colwyn, Delaware County, on January 13, 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 Colwyn (the "Recommendation" or "Recommendation and Report") to terminate the designation of distress made on May 6, 2015, 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 Colwyn of the Act 47 termination process.

Prior to the hearing, the Act 47 Coordinator for the Borough (the "Coordinator" or "Recovery Coordinator"), Keystone Municipal Solutions, LLC ("KMS"), submitted its Recommendation to DCED which reviewed 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. At the time, based upon a review of the totality of the factors included in Section 11701.255.1(c) of Act 47, the Coordinator concluded that substantial evidence supported 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 Colwyn's Act 47 distress designation should be terminated pursuant to Act 47 based upon the Coordinator's Recommendation dated December 16, 2021.

Borough Councilperson Barbara Williams, Borough Councilperson Jaqueline Stevenson, Senior Advisor to the Recovery Coordinator Dan Connelly, DCED Regional Local Government Policy Specialist Fred Chapman, and Borough Resident Kimberly Brown provided testimony in support of the termination of the distress designation.

Councilperson Barbara Williams testified that the Borough completed most of the recommendations in the Recovery Plan and has shown great improvement since entering Act 47. Councilperson Williams noted that she served four years as Council President and two years as Council Vice-President. Councilperson Williams concluded her testimony in favor of the recommendation of terminating Colwyn Borough's distressed status.

Fred Chapman, Local Government Policy Specialist with the Governor's Center for Local Government Services, testified that the Borough struggled with multiple challenges and major instability before entering Act 47, but has since shown a great amount of improvement. He stated that DCED has provided consistent support since the Borough's initial entrance into the Act 47 program, including not only loans and grants but also multiple training and educational opportunities. He concluded his testimony with a recommendation to terminate Colwyn Borough's distressed status.

Dan Connelly, Senior Analyst with Keystone Municipal Solutions, LLC, testified in favor of termination of distressed status. Mr. Connelly stated that when the Borough entered the Act 47 distressed municipalities program in 2015, it suffered from major fiscal and managerial problems. The Borough had very weak financial management practices and had not completed an independent financial audit in four years. It had accumulated almost \$1 million in past due payables which was equivalent to about 60% of the Borough's operating budget. The Borough's mismanagement led to the state withholding pension and liquid fuels aid. The Borough also suffered from a high rate of workforce related lawsuits. This resulted in costly insurance premiums and deductibles. In addition to past due payables, the Borough faced a structural budget deficit which further undermined its fiscal position.

Mr. Connelly noted that the Borough adopted its Recovery Plan in December 2015. The Recovery Plan was designed to strengthen the Borough's management infrastructure and set a course for structural budgetary solvency. The elected officials, Borough staff, DCED, and the Coordinator worked together to implement the plan and two subsequent plan amendments. The implementation efforts have positioned the Borough to successfully emerge from its Act 47 distressed status.

Additionally, the Borough made significant accomplishments over the last six years. It funded operations and eliminated or restructured outstanding liabilities without increasing its real estate millage rate which was among the highest in Delaware County. The Borough restored pension and liquid fuels funding and unlocked funding from previous years that was being withheld until compliance issues were resolved. Expense reductions and revenue enhancements allowed the Borough to rebuild its fund balance position and put it on solid financial footing. Furthermore, the Borough recently passed a 1% resident and non-resident earned income tax to secure future budgets and fund capital needs.

Mr. Connelly stated that while improving the fiscal position is critical to the Borough's recovery, overcoming distress is not possible without strengthening its management capacity.

The Borough previously did not have the ability to produce accurate and timely financial reports to elected officials. This has since been corrected. Additionally, the Borough is now up to date on its independent financial audits. The Borough secured changes in its labor and employment agreements allowing for greater efficiency in managing operations. Colwyn has also developed a capital improvement plan that identifies funding sources to address maintenance and improvement needs.

Mr. Connelly stated that the Coordinator evaluated the criteria delineated in Section 255.1(c)(1)-(4) of Act 47 in order to make a recommendation regarding whether the Borough's Act 47 distressed status should be terminated. The Coordinator's Report found that:

1. The Borough's audited financial statements demonstrate a reasonable probability of future balanced budgets outside of Act 47.
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. Connelly concluded his testimony by stating that, based upon his review of the statutory factors outlined in Act 47, the Recovery Coordinator's recommendation is to terminate the Borough's distressed status.

Councilperson Jaqueline Stevenson testified that, although it's been a difficult task, she is pleased that the Borough has returned to a financially sound position and that it could not be possible without the assistance of DCED. Ms. Stevenson concluded her testimony by thanking everyone for their cooperation.

Ms. Kimberly Brown, a Borough resident, next offered testimony. Ms. Brown testified that she is a longtime resident of Colwyn Borough and was in attendance during the initial Act 47 Hearing that was held in April of 2015. Ms. Brown stated how appreciative she is that DCED stepped in to assist the municipality at a very challenging time. However, she is scared that the municipality's challenges will return once the Borough exits Act 47. Ms. Brown closed her testimony by stating that she would like Colwyn Borough's distressed status to be extended until the end of the year.

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 Secretary Dennis Davin for his consideration of Colwyn's status as a financially distressed municipality.

CONCLUSION

The financial condition and position of Colwyn Borough 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 Colwyn Borough have its status as a financially distressed municipality terminated at this time.

EXHIBIT A

**ACT 47 COORDINATOR'S RECOMMENDATION TO THE
SECRETARY OF THE
DEPARTMENT OF COMMUNITY AND ECONOMIC
DEVELOPMENT
FOR THE
BOROUGH OF COLWYN**

Prepared By:

Keystone Municipal Solutions LLC
100 Pine Street

Harrisburg, PA 17101

December 16, 2021

BACKGROUND

The Borough of Colwyn is located in Delaware County, Pennsylvania and has a population of 2,474¹. Colwyn is largely a bedroom community for the City of Philadelphia, which lies east of the Borough. Rail service provides easy access to the City. Colwyn's population has remained relatively stable, but the Borough is currently left with little property available for further development.

The Borough is governed by a seven (7) member Borough Council and a Mayor, who has administrative responsibility for the Police Department. Under the Pennsylvania Borough Code, the Council is charged with establishing the budget, legislating by ordinance and oversight of the Borough's manager. The Mayor has, among other powers, the power to veto ordinances and resolutions passed by Council, and the oversight of the Police Department through supervision of the Chief of Police. It is anticipated that there will be turnover of a number of members of Borough Council following the upcoming municipal election.

Colwyn is also served by an elected Tax Collector, who is responsible for collecting the taxes assigned by Council and consistent with the Borough Code.

Council meets biweekly to conduct its business. All official and final action is taken by a majority vote. Ordinances or resolutions only become effective upon being signed by the Mayor or when passed by an extraordinary majority over the Mayor's veto. Under the Borough Code, the Borough's fiscal year commences on January 1 and ends on December 31, and the annual budget must be adopted prior to January 1. However, in the January following a municipal election, which will occur in November 2021, the new Council may "open" and amend the budget after it is adopted.

Pursuant to the Commonwealth of Pennsylvania's Municipalities Financial Recovery Act, Act 47 of 1987, as amended, (Act 47) the Borough was declared a financially distressed municipality by a Departmental Order of the Secretary of the Department of Community and Economic Development (DCED) on May 6, 2015. See Appendix A. Initially, Econsult Solutions,

¹ United States 2020 Decennial Census. <https://www.census.gov/search-results.html?searchType=web&cssp=SERP&q=Colwyn%20borough,%20Pennsylvania>

Inc. was appointed as the Act 47 Coordinator for the Borough, and in the summer of 2021, Keystone Municipal Solutions LLC assumed the role of Act 47 Coordinator (Coordinator). The Coordinator prepared and the Borough adopted its original Act 47 Recovery Plan pursuant to an Ordinance enacted on November 30, 2015. Upon such enactment, Colwyn started a five-year term under Act 47, as amended, scheduled to end on November 30, 2020. Colwyn subsequently adopted Recovery Plan amendments prepared by the Coordinator in December of 2017.

Act 199 of 2014 (Act 199) amended Act 47 to provide a timeline and process for municipalities to exit from their distressed determination. For the Borough, the initial Act 47 Recovery Plan, adopted by Brough Council on November 30, 2015, started the Act 199 timeline for the Borough to exit from the Act 47 program within five years. However, in light of the COVID-19 pandemic, the Pennsylvania General Assembly passed, and the Governor signed, Act 22 of 2020, which made Act 47 municipalities eligible for an 18-month extension beyond the time limit imposed under Act 47. For Colwyn, the Borough Council enacted an Ordinance on November 19, 2020 (by overriding a mayoral veto) extending its Act 47 termination date from November 30, 2020 to May 30, 2022. The extension included certain amendments to the Recovery Plan that 1) acknowledged the 18-month extension, 2) projected revenues and expenses of the Colwyn through 2022, and 3) outlined key recommendations for actions to be taken by the Borough through May 30, 2022. To date, the Borough has cooperated in implementing most of the initiatives included in the amendment. The Recovery Plan, as so amended through November 19, 2020, is referred to herein as the “Recovery Plan.”

Act 199 provides that the Secretary of DCED may, upon written recommendation from the coordinator, issue an administrative determination to rescind the order declaring the municipality distressed, thereby terminating the distressed status of the municipality, recommend a three-year extension in the Act 47 program, or request the Governor to make a determination of a fiscal emergency in the municipality. This process includes the preparation of a termination report by the recovery coordinator. This report constitutes the termination report by the Recovery Coordinator for Colwyn.

DCED and the Coordinator have concluded that the Coordinator shall issue a written Recommendation to the Secretary of DCED to issue a determination to rescind the order declaring the Borough a distressed municipality effective on or about May 30, 2022. The

remainder of this Act 47 Coordinator's Recommendation will analyze the relevant facts upon which the Coordinator's recommendation will be established.

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FACTORS TO CONSIDER TO RESCIND A DISTRESS DETERMINATION

Section 11701.255.1(c) of Act 47 enumerates four factors for the Secretary of DCED to consider in making a determination on whether to rescind the distressed status of a municipality. The full language of §255.1(c) is as follows:

(c) **Factors to Consider.** — If the secretary concludes that *substantial evidence* supports an affirmative determination for each of the following factors, the determination shall be that the distressed status will be rescinded. The secretary shall consider whether:

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

53 P.S. §11701.255.1(c). (Emphasis added.)

“Substantial evidence” is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. See *Republic Steel Corporation v. Workmen’s Compensation Appeal Board*, 492 Pa. 1 (Pa. 1980), 421 A.2d. 1060, at 1062. Appellate review is focused on whether there is rational support in the record, when reviewed as a whole, for an agency’s action. *Id.* at 1063. Findings of fact will be overturned only if they are arbitrary and capricious. *Id.* Using the statutory language above as guidance, the Coordinator will examine the relevant facts as they exist in the Borough for each factor enumerated in §11701.255.1(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 2016-2019 and a draft audit for 2020. The Coordinator analyzed the Borough's 2021 operating budget and year-to-date financial results to create 2021 projections.

The Borough entered Act 47 distressed status with nearly \$1 million in unresolved past due liabilities. From 2018-2021, the Borough experienced deficits and consequently a declining fund balance while addressing outstanding liabilities. The following highlights the main obligations addressed by the Borough in recent years:

- The Borough received the proceeds of a \$530,000 DCED loan on June 28, 2016. A portion of the loan was used to fund \$230,000 in delinquent minimum municipal obligations and interest from 2012-2015. By the end of 2016, the Borough had fully funded all past due pension obligations. The remaining \$300,000 in DCED loan proceeds were used to pay all delinquent sewer fund obligations owed to the Darby Creek Joint Authority. From 2017-2020, the Borough made an annual \$23,000 debt service payment from the General Fund and a \$30,000 debt service payment from the Sewer Fund to repay the DCED loan. Following a loan restructuring in 2020, annual DCED loan debt obligations fell to \$11,500 for the General Fund and \$15,000 for the Sewer Fund for 2021, but will increase to \$25,300 and \$33,000 annually through the May 1, 2026 loan maturity date.
- The Borough made \$24,000 payments in both 2017 and 2018 to settle a dispute with NDI Engineering Company.
- Due to mismanagement, the Borough incurred insurance deductible expenses related to past litigation. From 2018-2020, the Borough paid approximately \$150,000 toward outstanding insurance deductible expenses. The final payment of approximately \$40,000 to satisfy the obligation was made in 2021.

- In 2014 and 2015, the Commonwealth withheld Liquid Fuels funding from the Borough for spending compliance issues. After PENNDOT approval of the Borough's Liquid Fuels Repayment Plan and the first intergovernmental transfer to the Liquid Fuels Account, approximately \$164,000 in liquid fuels funds was released to the Borough in 2016. The Borough completed the liquid fuels re-payment schedule in 2018.
- In addition to the items listed above, the Borough has also addressed various outstanding obligations to other vendors.

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Table 1
BOROUGH OF COLWYN
General Fund Revenues and Expenditures
2016 to 2021

Revenues	2016 Audit	2017 Audit	2018 Audit	2019 Audit	2020 Draft Audit	2021 Estimate
Real Estate Taxes	\$1,014,696	\$1,006,650	\$1,021,225	\$1,035,678	\$958,558	\$1,088,237
Per Capita Taxes	\$14,524	\$13,842	\$13,913	\$14,178	\$14,039	\$15,120
Local Services Tax	\$16,279	\$19,496	\$16,588	\$15,346	\$15,832	\$13,531
Other Local Taxes	\$2,556	\$0	\$5,261	\$9,673	\$22,686	\$10,492
Licenses & Permits	\$42,781	\$35,084	\$33,520	\$29,553	\$25,932	\$21,033
Fines & Forfeits	\$14,064	\$14,191	\$19,381	\$14,704	\$7,660	\$9,450
Interest, Rents, & Royalties	\$2,908	\$4,491	\$12,330	\$17,993	\$1,703	\$178
Municipal Pension System Aid	\$28,807	\$13,795	\$14,324	\$15,361	\$9,848	\$0
Other Intergov Revenue	\$97,352	\$142,520	\$185,018	\$25,000	\$382,098	\$2,500
Public Safety Charges for Services	\$76,246	\$104,262	\$101,118	\$105,166	\$97,857	\$128,560
Solid Waste Collection & Disposal ²	\$130,330	\$125,192	\$0	\$0	\$0	\$0
Other Charges for Service	\$14,352	\$17,757	\$17,076	\$31,829	\$423	\$27,118
Unclassified Operating Revenues	\$17,479	\$273,606	\$17,991	\$20,465	\$136,785	\$26,492
Other Financing Sources	\$530,000	\$0	\$815	\$0	\$0	\$0
Total Revenues	\$2,002,374	\$1,770,886	\$1,458,560	\$1,334,946	\$1,673,421	\$1,342,711
Expenditures	2016 Audit	2017 Audit	2018 Audit	2019 Audit	2020 Draft Audit	2021 Estimate
General Government	\$470,172	\$430,880	\$424,013	\$346,600	\$388,189	\$351,191
Public Safety	\$458,493	\$487,433	\$579,751	\$591,825	\$616,176	\$633,232
Health & Human Services	\$4,243	\$1,252	\$732	\$862	\$749	\$800
Public Works Sanitation	\$134,704	\$135,669	\$0	\$0	\$0	\$0
Public Works Highway & Streets	\$89,400	\$97,918	\$138,700	\$206,072	\$342,262	\$46,694
Culture & Recreation	\$0	\$0	\$12,946	\$144	\$38,662	\$250
Pension/Retirement Fund Contributions	\$522,811	\$94,598	\$16,173	\$106,264	\$98,604	\$81,754
Other Emp Paid Benefits/Withholdings	\$183,981	\$125,301	\$23,076	\$49,713	\$103,726	\$177,981
Insurance, Casualty & Surety	\$102,243	\$123,192	\$242,283	\$107,885	\$67,803	\$55,313
Unclassified Operating Expenditures	\$0	\$14,500	\$0	\$166	\$98	\$0
Other Financing Uses	\$0	\$0	\$28,874	\$0	\$0	\$8,136
Debt Service	\$0	\$23,000	\$23,000	\$23,000	\$23,000	\$11,500
Total Expenditures	\$1,966,047	\$1,533,743	\$1,489,548	\$1,432,531	\$1,679,269	\$1,366,850
Operating Surplus/(Deficit)	\$36,327	\$237,143	(\$30,988)	(\$97,585)	(\$5,848)	(\$24,140)
Fund Balance	\$269,628	\$506,771	\$475,783	\$378,198	\$372,350	\$359,710

² As recommended in the Act 47 Recovery Plan, a separate Trash Fund was created to manage solid waste collection and disposal revenue and expenses in 2018.

Disciplined operational and financial management has enabled the Borough to address nearly \$1 million in outstanding liabilities while also avoiding additional obligations resulting from mismanagement. The deficits were incurred primarily to resolve obligations that were “one-time” rather than recurring in nature, which required the use of fund balance, but created budgetary relief for the future. Consequently, audited financial statements demonstrate a reasonable probability of the elimination of past deficits and progress toward future balanced budgets outside of Act 47.

An analysis of the Borough’s future revenue and expenditure projections and the ability to achieve balanced budgets is included in the Factor 4 section of this report.

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 only outstanding debt obligation is its loan from DCED issued in 2016 shortly after it adopted its initial Recovery Plan. The original loan amount was \$530,000 with a 0% interest rate and a 2026 maturity. The original debt service schedule called for ten equal payments of \$53,000 from 2017 through 2026.

In response to the COVID pandemic and associated revenue uncertainties, the Borough worked with DCED to restructure the repayment schedule and provide cash flow relief in 2021. The 2021 payment was reduced to \$26,500 (50% of the original scheduled payment) with the unpaid \$26,500 equally distributed over the remaining life of the loan. As of November 15, 2021, the remaining balance of the loan is \$291,500 with annual payments of \$58,300 due each year from 2022 through 2026.

The Borough has not missed a debt service payment since the loan was issued. As of the writing, the Borough does not have plans for any new debt obligations to be incurred in 2021 or 2022. The Borough’s historical and projected annual debt service obligations are summarized in the table below:

Table 2
BOROUGH OF COLWYN
Debt Service Obligations
2017 to 2026

Payment Date	Beginning Balance	Payment	Ending Balance
5/1/2017	\$530,000	\$53,000	\$477,000
5/1/2018	\$477,000	\$53,000	\$424,000
5/1/2019	\$424,000	\$53,000	\$371,000
5/1/2020	\$371,000	\$53,000	\$318,000
5/1/2021	\$318,000	\$26,500	\$291,500
5/1/2022	\$291,500	\$58,300	\$233,200
5/1/2023	\$233,200	\$58,300	\$174,900
5/1/2024	\$174,900	\$58,300	\$116,600
5/1/2025	\$116,600	\$58,300	\$58,300
5/1/2026	\$58,300	\$58,300	-

The projections in Table 4 in the Factor 4 section of this report show the Borough's ability to meet all debt service obligations through the 2025 projection period. There is a reasonable probability that the Borough should be able to pay its debt service after the projection period through the 2026 loan maturity.

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 Borough has negotiated and resolved all claims and judgments that would have placed the Borough in imminent jeopardy of financial default. There are currently no pending lawsuits or claims against the Borough, and the Borough has remained in full compliance with any outstanding judgments against it.

At the time Colwyn entered into Act 47 distressed status, there were a number of outstanding lawsuits against the Borough. The Coordinator worked closely with the Borough's Solicitor and Borough Council to resolve those outstanding claims, and by 2017, all outstanding claims were resolved.

Unfortunately, the resulting resolutions created an obligation for the Borough in the form of deductibles owed to the Borough's insurance carrier. In 2018, the deductible debt was approximately \$150,000. In October of 2019, the Coordinator worked with the Solicitor, the Council and the Borough's carrier to establish an installment payment plan agreement to satisfy the deductible costs.

As of the date of this Recommendation to the Secretary, the Borough has complied with payment plan agreement and has paid all outstanding deductible amounts. Accordingly, the Borough has no outstanding financial obligations related to lawsuits or claims.

A key recommendation of the Recovery Plan was to improve personnel related decision-making, and to rely on outside labor counsel when making personnel and labor related decisions. It was clear that prior to 2016, the Borough made personnel and labor related decisions that had significant negative consequences. The Borough has successfully implemented that Recommendation and since 2018, there have been no new or additional claims against the Borough.

Outstanding Judgments:

- 1) On April 30, 2014, the Court of Common Pleas of Delaware County issued an Order requiring the Borough to provide health insurance coverage and reimbursement for certain healthcare related expenses to certain retired police officers. Since April 2014, the Borough has remained in compliance with the Order. Relatedly, in November of 2019, the Borough entered into a Settlement Agreement and General Release with former Chief Bryan Hills (Agreement). Pursuant to the Agreement, Mr. Hills waived any right to future health benefits from the Borough, but Mr. Hills is entitled to \$5,000 per year as payment in lieu of post-retirement health benefits for the years 2020 through 2024, payable by June 30 of each such year. To date, all payments due to Mr. Hills have been made. The Borough remains in a position to continue to make the necessary payments to cover the expenses of the police retiree healthcare benefits, including the required annual payment to Mr. Hills. In addition, such sums have been appropriated in the Borough's draft 2022 budget.
- 2) On July 7, 2014, the Court of Common Pleas of Delaware County issued an Amended Decree, which amended a July 9, 2013 Final Decree related to the ownership and

possession of a 2007 Pierce Pumper Truck and a related loan obligation. Subsequently, the Borough made the necessary payments to satisfy the outstanding debt for the Pumper Truck and took title of the Pumper Truck. The Borough subsequently transferred ownership of the Pumper Truck to Darby Fire Company No. 1, a department currently providing fire services to the Borough.

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 achieve budget surpluses throughout the 2022-2026 projection period. The reasonable projected revenues of the Borough are sufficient to fund ongoing necessary expenditures (five year projection), including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services.

Key to the Borough's future fiscal stability is the enactment of a 1% Earned Income Tax (EIT) on residents and non-residents, effective January 1, 2022. The EIT is used by many municipalities as its principal source of non-Real Estate Tax revenue in Pennsylvania. The Coordinator estimates that, once fully implemented, annual revenue will be approximately \$300,000 from a 1% EIT, representing approximately 20% of 2022 budgeted General Fund revenue.

The Coordinator's analysis shows that more than half of Colwyn resident workers are already paying either the EIT to other Pennsylvania municipalities or the Philadelphia Wage Tax. However, those taxes are retained in those jurisdictions. After Colwyn implements the EIT, those workers would not be impacted; however, the Borough would retain a meaningful portion of those revenues for its own General Fund. The Coordinator estimates that well over \$100,000 of the new EIT revenue would come from Colwyn residents already paying the EIT to a different

jurisdiction or from non-residents. A Colwyn EIT will be a new tax for Colwyn residents that work in Colwyn or other jurisdictions without an EIT.

Real Estate Tax revenue is the Borough's primary revenue source; however, the Borough's millage rate is one of the highest in Delaware County, which puts enormous strain on taxpayers. The Borough has a poor Real Estate millage collection rate with current real estate revenue declining from 2015 through 2020. Increasing the millage rate would likely worsen the collection rate and hurt development activity.

The Borough is taking steps to reverse the trend of poor Real Estate Tax collection rates. The new EIT will enable the Borough to consider Real Estate Tax rate reductions, which should alleviate pressure on taxpayers and improve collections. The projections in Table 4 assume a 5% reduction in the Real Estate Tax millage rate beginning in 2023 with no increases through 2026.

Another strategy recently implemented to improve collections is the adoption of a new policy to manage the writ of execution process for delinquent taxes and fees. In the past, Council was required to review each delinquency case individually before providing authorization for the Borough's delinquent tax collector to proceed to sheriff sale. This process was inefficient and rarely resulted in the progression of delinquencies to sheriff sale, which weakens the Borough's ability to collect delinquent taxes and fees. The Borough adopted a resolution that updated the policy for managing the writ of execution process for delinquent taxes and fees. The resolution established specific circumstances under which a writ of execution would be filed, eliminating the need for a case-by-case review and increasing the likelihood that long-term delinquencies progress to sheriff sale. The goal of the new process is to encourage delinquent property owners to pay past due taxes and to provide a disincentive for delinquencies in the first place.

Also key to the Borough's fiscal stability is disciplined adherence to a multi-year capital improvement program. The Coordinator worked with the Borough throughout 2021 to develop a plan that outlined capital needs and funding from General Fund, Grants, Liquid Fuels Fund, and other intergovernmental sources. The projections below assume \$20,000 in annual General Fund transfers for capital expenditures through 2026.

The projections in Table 4 take into account all remaining annual debt service payments owed by the Borough to DCED related to the interest-free Act 47 loan referenced in Factor 2.

The projections demonstrate the Borough's ability to make timely debt service payments and, beginning in 2027, the reduced debt service expense will provide relief to the General Fund.

Not reflected in the General Fund projections below is activity in the Borough's Sewer and Trash Funds. The Coordinator projects surpluses in these funds in 2021; however, sewer and trash related expenses grow each year. The Borough must take steps to ensure that fee and rate levels are adjusted regularly to ensure balanced budgets in the future.

Table 3
BOROUGH OF COLWYN
Projection Growth Rate Assumptions for Major Revenue and Expenditure Categories
2023 to 2026

Major Revenue Categories	2023	2024	2025	2026
Real Estate Taxes Current Year	-5.0%	0.0%	0.0%	0.0%
Real Estate Taxes Delinquent	0.0%	0.0%	0.0%	0.0%
Earned Income Tax	75.0%	2.4%	2.4%	2.4%
LST, Per Capita & Other Local Taxes	0.0%	0.0%	0.0%	0.0%
Business Licenses & Fines	1.0%	1.0%	1.0%	1.0%
Major Expenditure Categories	2023	2024	2025	2026
Salaries, Wages & Overtime	3.0%	3.0%	3.0%	3.0%
Healthcare	5.1%	5.1%	5.1%	5.1%
FICA and Other Personnel Expenditures	3.0%	3.0%	3.0%	3.0%
Pension MMO	3.0%	3.0%	3.0%	3.0%
Solicitor and Legal Services	2.4%	2.4%	2.4%	2.4%
Professional & Other Services	3.0%	3.0%	3.0%	3.0%
Fire Service Mutual Aid	2.4%	2.4%	2.4%	2.4%

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Table 4
BOROUGH OF COLWYN
General Fund Revenue and Expenditure Projections
2022 to 2026

Revenues	2022 Draft Budget	2023 Projection	2024 Projection	2025 Projection	2026 Projection
Real Estate Taxes Current Year	\$860,000	\$817,000	\$817,000	\$817,000	\$817,000
Real Estate Taxes Delinquent	\$129,000	\$129,000	\$129,000	\$129,000	\$129,000
Earned Income Tax	\$175,000	\$306,000	\$314,000	\$321,000	\$329,000
LST, Per Capita & Other Local Taxes	\$48,000	\$48,000	\$48,000	\$48,000	\$48,000
Business Licenses & Fines	\$33,000	\$33,000	\$33,000	\$34,000	\$34,000
Grants and Pension Aid	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
Governmental Fees & Charges for Services	\$18,000	\$18,000	\$18,000	\$19,000	\$19,000
Public Safety	\$77,000	\$79,000	\$81,000	\$83,000	\$85,000
Crossing Guard Reimbursement	\$30,000	\$31,000	\$32,000	\$33,000	\$34,000
Transfer from Highway (Liquid Fuels)	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000
Other Revenue	\$21,000	\$21,000	\$22,000	\$22,000	\$23,000
Total Operating Revenue	\$1,416,000	\$1,507,000	\$1,519,000	\$1,531,000	\$1,543,000
Expenditures	2022 Draft Budget	2023 Projection	2024 Projection	2025 Projection	2026 Projection
Salaries, Wages & Overtime	\$527,000	\$543,000	\$560,000	\$576,000	\$594,000
Healthcare	\$43,000	\$45,000	\$47,000	\$49,000	\$52,000
FICA and Other Personnel Expenditures	\$99,000	\$102,000	\$105,000	\$108,000	\$111,000
Pension MMO	\$61,846	\$63,701	\$65,612	\$67,581	\$69,608
Solicitor and Legal Services	\$78,000	\$79,000	\$81,000	\$83,000	\$85,000
Professional & Other Services	\$241,000	\$249,000	\$256,000	\$264,000	\$272,000
Fire Service Mutual Aid	\$38,000	\$39,000	\$40,000	\$41,000	\$42,000
Insurances	\$73,000	\$75,000	\$77,000	\$78,000	\$80,000
Supplies and Equipment	\$46,000	\$48,000	\$50,000	\$51,000	\$53,000
Repairs and Maintenance	\$59,000	\$60,000	\$62,000	\$63,000	\$65,000
Other Expenditures	\$44,000	\$45,000	\$46,000	\$47,000	\$48,000
DCED Loan Debt Service	\$25,300	\$25,300	\$25,300	\$25,300	\$25,300
Total Operating Expenditures	\$1,335,146	\$1,374,001	\$1,414,912	\$1,452,881	\$1,496,908
Operating Surplus/(Deficit)	\$80,854	\$132,999	\$104,088	\$78,119	\$46,092
Transfer to Capital Reserve Fund	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)
Adjusted Net Income/(Loss)	\$60,854	\$112,999	\$84,088	\$58,119	\$26,092
Fund Balance	\$378,000	\$490,000	\$574,000	\$629,000	\$654,000

OTHER FACTORS

Although not contemplated by Act 47, the Coordinator believed it prudent to discuss two additional factors that could have significant impact on the Borough in 2022 and beyond.

COVID-Related Uncertainties

At the time of the writing of this Act 47 Coordinator's Recommendation, the Borough, along with the nation, is in the midst of the Coronavirus (COVID-19) pandemic. The future impact of the COVID-19 pandemic on the Borough's financial projections as presented by the Coordinator in this Act 47 Coordinator's Recommendation is unknown at this time. The Coordinator will continue to monitor the Borough's fiscal condition as the Borough progresses through the COVID-19 pandemic and the full extent of its impact becomes clear.

American Rescue Plan Act

In March 2021, President Biden signed into law the American Rescue Plan Act, a \$1.9 trillion aid package designed to speed the recovery from the economic and health impacts of the COVID-19 crisis. The ARPA includes a wide range of stimulus and relief measures such as direct payments to individuals, a child tax credit, funds for capital projects, homeowner and emergency rental assistance, small business relief, among other provisions. A major part of the ARPA is a \$350 billion State and Local Fiscal Recovery Fund to provide emergency funding for state, local, territorial, and Tribal governments to address the mismatch between rising costs and declining revenues during the pandemic.

State and local government recipients may use the funds to cover costs by December 31, 2024. The funds will be distributed in two tranches with 50% received in July 2021 and the remainder to be delivered no earlier than one year later.

The Borough's total allocation is approximately \$260,000. Guidance from the Treasury Department includes the following allowable uses:

- Respond to the COVID-19 emergency and address its economic effects, including through aid to households, small businesses, nonprofits, and industries such as tourism and hospitality.
- Provide premium pay to essential employees or grants to their employers. Premium pay cannot exceed \$13 per hour or \$25,000 per worker.

- Provide government services affected by a revenue reduction resulting from COVID-19.
- Make investments in water, sewer, and broadband infrastructure.

The Borough has committed to a transparent process to determine how to invest its ARPA funding. The Coordinator has conducted ARPA educational sessions with the Borough Manager and council leadership. The Borough is coordinating ARPA related public outreach efforts with its 2022 budget process.

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 Borough. 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 in the Factors to Consider to Rescind a Distress Determination of this Act 47 Coordinator’s Recommendation 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 Recovery Plan. In addition, the Coordinator’s cash flow projections

anticipate that the Borough will remain solvent throughout 2022, enabling the Borough to meet its financial obligations as they come due, including its 2022 debt service. (See Table 5.)

Table 5
BOROUGH OF COLWYN
Cash Flow Projection
2021 to 2022

	Nov/Dec 2021	1st Quarter 2022	2nd Quarter 2022	3rd Quarter 2022	4th Quarter 2022
Receipts	175,700	724,785	290,800	201,440	196,900
Expenditures	245,676	258,391	371,835	333,782	345,699
Cash Surplus/(Deficit)	(69,976)	466,395	(81,035)	(132,342)	(148,799)
Beginning Balance	199,513	129,537	595,932	514,897	382,555
Ending Balance	\$129,537	\$595,932	\$514,897	\$382,555	\$233,756

In its draft 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 fire services, refuse collection and disposal, snow removal, payroll and pension obligations and the fulfillment of debt and other 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 Recommendation, the Borough is unable to ensure the continued provision of vital and necessary services.

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 Colwyn a distressed municipality. However, the Coordinator is mindful that the Borough, along with the nation, is experiencing the effects of confronting the COVID-19 pandemic as of the time of this recommendation. The circumstances created by the COVID-19 pandemic, including the uncertain nature of its impact on Borough revenues, makes it impracticable at this time to project the extent of the negative impact on the Borough's future financial condition. The Coordinator will continue to monitor the fiscal impact of the COVID-19 pandemic on the Borough's fiscal condition over the next several weeks and months and provide its findings to DCED.

As detailed in the Recovery Plan, the majority of the Borough's issues leading to distressed status were self-inflicted. The Borough has made tremendous strides since 2015 to bring its financial and operational houses in order. The Borough's elected officials hired and empowered borough managers to ensure that the Borough functioned responsibly on a day-to-day and year-to-year basis. The Borough also transitioned to an all part-time employee complement to right size its workforce to its needs.

The Borough's police department is also part-time, currently led by a part time Chief of Police and served by 12 part time officers. Under the leadership of current Chief John Martinez, the Borough has developed and implemented appropriate policies and procedures to guide the department. The Borough has also developed a schedule and an officer complement that will keep overtime costs at a minimum. The Borough is capable of providing key police services to its residents in 2022 and beyond.

The Borough also addressed the provision of fire services. At the time of its declaration of fiscally distressed status, both of the Borough's fire companies were defunct and unable to provide fire services to the Borough. In March of 2016, the Borough entered into an intermunicipal agreement with the Borough of Darby, a neighboring municipality, for the provision of fire services to Colwyn. Pursuant to the agreement, the Borough compensates Darby Borough approximately \$38,000 annually for fire services. Fire services are provided by both Darby Fire Company No. 1 and Darby Fire Company No. 2. The Borough's draft 2022 Budget includes an appropriation for the required monthly payments to Darby Borough to continue the provision of fire services for the Borough.

Act 47 provides specific guidance for the Coordinator to evaluate when making its recommendation to the Secretary of DCED. It does not permit the Coordinator to entertain the evaluation of all potential scenarios the Borough may encounter in the near or distant future. At this time, it is the Coordinator's opinion that the Borough of Colwyn 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 may issue a determination to rescind the order declaring the Borough of Colwyn a distressed municipality as defined by Act 47 of 1987, as amended.

APPENDIX

A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

IN RE:

BOROUGH OF COLWYN

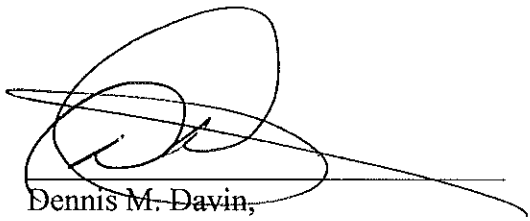
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Request for Determination of
Distress under Act 47

ORDER

AND NOW, this 6th day of May, 2015, upon consideration of the Certified Record, and the Proposed Findings of Fact and Conclusions of Law submitted by the Applicant, Borough of Colwyn, for the reasons set forth in the accompanying Findings of Fact and Conclusions of Law, it is hereby ORDERED that the Borough of Colwyn has met the criterion set forth in Section 201(8) of the Municipalities Financial Recovery Act, 53 P.S. § 11701.201(8), and, therefore, a determination of municipal financial distress is hereby issued. Pursuant to the requirements of 53 P.S. § 11701.221(a), a coordinator shall be appointed to prepare a financial recovery plan to address the Applicant's financial distress.

By:



Dennis M. Davin,
Acting Secretary

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 Colwyn, Delaware County, Pennsylvania with respect to the recommendation from the Act 47 Coordinator to consider a rescission of the City'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 January 13, 2022 at 6:00 p.m., in the meeting room of the Colwyn Borough Hall, 221 Spruce Street, Colwyn, PA 19023, 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 Fred Chapman, Local Government Policy Specialist, at 570 – 963 – 4166.

EXHIBIT C

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT

* * * * *

IN RE: BOROUGH OF COLWYN - ACT 47
HEARING TO RECEIVE TESTIMONY

* * * * *

BEFORE: ANDREW SHEAF,
Hearing Officer

HEARING: Thursday, January 13, 2022
6:07 p.m.

LOCATION: Colwyn Borough
Municipal Building
221 Spruce Street
Colwyn, PA 19023

WITNESSES: Barbara Williams, Fred
Chapman, Dan Connelly, Jacqueline
Stevenson, Kimberly Brown

Reporter: Jennifer Corb

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A P P E A R A N C E S

SEAN C. CAMPBELL, ESQUIRE

Office of Chief Counsel

PA Department of Community and

Economic Development

Commonwealth Keystone Building

400 North Street

4th Floor

Harrisburg, PA 17120

Counsel for Department of Community

and Economic Development

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I N D E X

DISCUSSION AMONG PARTIES	5 - 24
CERTIFICATE	25

E X H I B I T S

<u>Number</u>	<u>Description</u>	<u>Page</u> <u>Offered</u>
	NONE	OFFERED

P R O C E E D I N G S

HEARING OFFICER:

Good evening. Thanks
for coming tonight. Just for the
record before we get started, this is
an administrative hearing where we can
only accept testimony. We cannot
respond to any questions, comments, or
concerns or challenges at this
hearing.

I would like to commence
this Act 47 public hearing to receive
testimony on the potential termination
of the designation of distress for the
Borough of Colwyn under Act 47 as
amended, the municipality's financial
recovery program.

At this thing --- at
this time, will you please rise and
pledge allegiance to the flag?

PLEDGE OF ALLEGIANCE RECITED

HEARING OFFICER:

1 I would like to call the
2 administrative public hearing to
3 order. My name is Andrew Sheaf, Local
4 Government Policy Manager for the
5 Department of Community and Economic
6 Development and I will serve as the
7 hearing officer for this session.

8 This hearing is being
9 held in accordance with Act 47 as
10 amended and the Sunshine Law. It was
11 advertised in the Delaware County ---
12 in the Delaware County Daily Times
13 Newspaper on January 6th, 2022 and
14 written notice has been provided to
15 members of council, borough manager,
16 and counsel --- and Colwyn Borough's
17 solicitor prior to the meeting.

18 On December 16th, 2021,
19 the recovery coordinator for the
20 Borough of Colwyn, Keystone Municipal
21 Solutions, submitted a coordinator's
22 report which reviewed the statutory
23 factors necessary to rescind the order
24 declaring the Borough of Colwyn
25 distressed and came to the conclusion,

1 this distressed status should be
2 terminated.

3 The Department is
4 required to hold a hearing within 30
5 days of receiving a final
6 coordinator's report, which we are
7 doing now. The hearing today will be
8 to present testimony relating to the
9 coordinator's report and the Borough's
10 potential exit from Act 47.

11 Individuals representing Colwyn
12 Borough, Colwyn Borough's Act 47
13 Recovery Coordinator, and the
14 Governor's Center for Local Government
15 Services will be presenting testimony
16 tonight.

17 Any other interested
18 party is invited to provide testimony
19 after you --- after we receive full
20 testimony from the parties I just
21 mentioned. We just need to make sure
22 that if you are providing testimony
23 that if you haven't, to please sign in
24 on the sign in sheet and mark that
25 you're providing testimony. And also

1 before --- before you speak tonight,
2 if you would please state your name
3 clearly and loudly for the
4 stenographer for the public record.

5 As I said, there's a
6 sign in sheet which is being
7 circulated to verify attendance at the
8 hearing today. And I will ask all of
9 the attendants to ls sign the sheet
10 even if you are not providing
11 testimony.

12 And now we would like to
13 move on to the testimony. I would ask
14 that the stenographer to please swear
15 in those who wish to testify.

16 COURT REPORTER:

17 Please raise your right
18 hand.

19 ---

20 WITNESSES SWORN EN MASSE

21 ---

22 HEARING OFFICER:

23 Thank you. If you
24 change your mind in the audience and
25 you want to present testimony, that is

1 fine. But you will need to sign in
2 and be sworn in before proceeding.
3 Those who are sure they are providing
4 testimony --- we've already did that
5 part. My apologies.

6 All right.

7 We can move on to the
8 testimony. First up, if we could have
9 Councilwoman Barbara Williams come up.

10 MS. WILLIAMS:

11 Good evening. My name
12 is Barbara Williams, last name
13 W-I-L-L-I-A-M-S, council member.

14 I wanted to give
15 testimony stating that I believe that
16 we should be ready to exit Act 47.
17 Dating back to 2015 when we did come
18 in we were in a bad fix. Now we have
19 completed most of the recommendations
20 that they have given us. If I'm not
21 mistaken, it was 68 of them and we did
22 at least --- I think we got 15 of them
23 left. So we did pretty much well what
24 we were supposed to do. And that's
25 because we followed the

1 recommendations.

2 So I'm asking that we do
3 exit from the Act since that the
4 previous council --- the council
5 that's come and gone and they will
6 take into consideration what
7 recommendations that are meant by Act
8 47. And I would like to thank the
9 DCED for stepping in and helping
10 Colwyn Borough. I would like to thank
11 Act 47 and Keystone. If it wasn't for
12 you guys and the council members that
13 were on with me following the
14 recommendation, I don't know where we
15 would be.

16 And I just want to put
17 on the record under my leadership, 40
18 years as the president, two years as
19 the vice president, I think we did
20 good and I'm asking that the new
21 president and the new council please
22 consider the Act 47 recommendations
23 because that will get us out and keep
24 us out. We don't want to be losing
25 this ship. And that's my testimony.

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HEARING OFFICER:

Thank you, Councilwoman.
Next I would ask DCED Local Government
Policy Specialist for the Southeast
Region, Fred Chapman, to provide
testimony.

MR. CHAPMAN:

Good evening, everyone.
The Mayor, your council, it's nice to
see you. My name is Frank Chapman and
I work for the State Department of
Community and Economic Development
Center for Local Government Services.
I serve as a Policy Specialist
primarily in the Southeast Region.
I'm happy to be here and pleased to
have the opportunity to offer
testimony on the Act 47 decision
status for Colwyn Borough.

As we know, Colwyn
Borough entered the Commonwealth
Distressed Municipalities program,
commonly known as Act 47, in May of
2015. We are all aware of the
Borough's past struggles with major

1 instability. The Borough struggled
2 with multiple challenges and
3 unfavorable issues across the board
4 ranging from a variety of areas such
5 as multiple lawsuits, major labor
6 issues, staffing, public safety all
7 while addressing infrastructure and
8 potential sewer problems. The Borough
9 suffered early on with a lack of
10 sufficient audit compliance, budget,
11 and accountability negligence.

12 One thing I and most of
13 us here can agree on is a consistent
14 support from the Commonwealth of
15 Pennsylvania. Specifically, the
16 Department of Community and Economic
17 Development. In addition to other
18 major DCED funding, the Borough
19 secured a \$530,000 interest free loan
20 from the DCED which was critical to
21 restoring safe pension aid to the
22 Borough. Additionally, the Borough
23 has utilized state-sponsored training
24 and security --- I'm sorry, and
25 secured DCED grants to address a

1 variety of needs including blight
2 mitigation and parks improvements.

3 Most recently, the DCED
4 supplied the Borough with a \$35,000
5 grant to support technology upgrades,
6 capital improvement planning, and
7 additional Borough management
8 services.

9 Along with the excellent
10 job of your coordinators and the
11 entire Act 47 team, DCED has upheld
12 its end of the bargain. And I support
13 the Borough in one way or another. In
14 all the areas that I have mentioned
15 through loans, grants, training, and
16 other services, and work diligently as
17 an effort to see the Borough succeed.

18 Colwyn Borough has
19 improved significantly, and I am in
20 support of the recommendation that the
21 Borough's distressed determination
22 status be rescinded. On this date of
23 January 13th, 2022, Colwyn Borough is
24 in a much strengthened fiscal
25 position. And I truly believe with

1 the assistance of this great core
2 council as leaders and supportive
3 residents, the Borough will continue
4 to move forward to see even brighter
5 days ahead.

6 Finally on behalf of the
7 State Department of Community and
8 Economic Development, we remain
9 hopeful that Mayor and council will
10 continue to work together and strive
11 for excellence, moving Colwyn Borough
12 forward the sake of this generation
13 and the generation to come. Thank
14 you, and that will conclude my
15 testimony on the Act 47 retention
16 status for Colwyn Borough. And on a
17 personal note, I want to thank council
18 for all --- and Mayor out in the
19 hallway, for all of your hard work and
20 your cooperation. And I just want to
21 leave with you a quote from Dr. Martin
22 Luther King. Whatever your life's
23 work is, to do it well. I want you to
24 do this job so well that the living,
25 the dead, and the unborn cannot do it

1 any better. Thank you.

2 HEARING OFFICER:

3 Thank you, Mr. Chapman.

4 Next I'd ask Act 47 Recovery
5 Coordinator Dan Connelly to provide
6 testimony.

7 MR. CONNELLY:

8 Good evening. My name
9 is Dan Connelly. I work for a firm
10 called Keystone Municipal Solutions,
11 and we are the recovery coordinators
12 for the Borough of Colwyn.

13 When the Borough entered
14 the Act 47 Distressed Municipality
15 program in 2015, it suffered from
16 major fiscal and managerial problems.
17 The Borough had very weak financial
18 management practices and had not
19 completed an independent financial
20 audit in four years, and accumulated
21 almost \$1,000,000 in past due payables
22 which was the equivalent of about 60
23 percent of the Borough's operating
24 budget.

25 The Borough's

1 mismanagement led to the state
2 withholding pension and liquid fuels
3 funding. The Borough suffered from a
4 high rate of workforce related
5 lawsuits which resulted in costly
6 insurance premiums and deductibles.
7 In addition to past due payables, the
8 Borough faced a structure budget
9 deficit which further undermined its
10 fiscal position.

11 The Borough adopted its
12 original recovery plan in December of
13 2015 which was designed to strengthen
14 management infrastructure and set a
15 course for structural budgetary
16 balance. The elected officials,
17 borough staff, and DCED, the recovery
18 team, worked together to implement the
19 plan and two subsequent amendments,
20 which has Colwyn's position to emerge
21 from Act 47 status.

22 The borough staff has
23 had significant accomplishments over
24 the last six years. It funded
25 operations and it eliminated or

1 restructured outstanding liabilities
2 without increasing its real estate
3 millage rate which was among the
4 highest in Delaware County. The
5 Borough restored pension and liquid
6 fuels funding and unlocked funding
7 from previous years that was being
8 withheld until compliance issues were
9 resolved.

10 Expense reductions and
11 revenue enhancements allowed the
12 Borough to rebuild its fund balance
13 position and put it on solid financial
14 footing. The Borough just recently
15 passed a one percent resident and non-
16 resident earned income tax to secure
17 future budgets and capital means.
18 While improving the fiscal situation
19 is obviously very important to the
20 Borough's recovery, overcoming the
21 distress is not possible without
22 strengthening management capacity.

23 The Borough previously
24 did not have the ability to produce
25 accurately --- accurate and timely

1 financial reports to --- to elected
2 officials, which has been corrected.
3 It is now up to date on their
4 independent financial audits. The
5 Borough secured changes in its labor
6 employee units which are important to
7 managing operations efficiently.
8 Colwyn developed a capital improvement
9 plan that identifies funding sources
10 to address maintenance and improvement
11 needs. And of course, the Borough is
12 now positioned to begin investing in
13 those needs.

14 The recovery team
15 evaluated a criteria delineated in Act
16 47 to rescind distress status and make
17 --- make a recommendation in our
18 report dated December 16th, 2021.
19 These criteria include that the
20 Borough's audited financial statements
21 demonstrate a reasonable probability
22 of future balance budgets outside of
23 Act 47. Two, there is a reasonable
24 probability that the Borough should be
25 able to continue continue timely debts

1 of its payments outside of Act 47.
2 Three, the Borough has negotiated and
3 resolved all claims and judgments that
4 would have placed the Borough in
5 imminent jeopardy of financial
6 default. And four, the reasonable
7 projected revenues of the Borough are
8 sufficient to fund ongoing and
9 necessary expenditures on their
10 projection, including pension and debt
11 obligations and continuation or
12 negotiation of collective ---
13 collective bargaining agreements in
14 the provision of municipal services.

15 Based on our review of
16 the statutory factors outlined in Act
17 47, the recovery team's recommendation
18 is to rescind the Borough's distressed
19 status. Thank you very much.

20 HEARING OFFICER:

21 Thank you, Mr. Connelly.
22 Next I would ask Councilwoman
23 Jacqueline Stevens to --- Stevenson to
24 please present testimony.

25 MS. STEVENSON:

1 Good evening, can you
2 guys hear me? Yeah? My name's
3 Jacqueline Stevenson, the first
4 resident since 1994 of Colwyn. And
5 second, a Colwyn council member since
6 2016.

7 I'd like to say it's
8 been a long road to recovery. With
9 the awesome wisdom and the help from
10 DCED and their team, we collectively
11 have forged forward with blood, sweat,
12 and sometimes tears, to bring our
13 Borough back to the place it should
14 be, financially sound. We all started
15 with the unknown, where was this,
16 where was that. But I'm here to say
17 without DCED since 2015, we would
18 never have been able to exit as soon.
19 It's been, what? Five years. Can you
20 believe it? Five years.

21 I would like the powers
22 to be to know with a heavy heart that
23 I hate to see my new family leave, but
24 it's time. I am asking or
25 recommending that we exit. Again, I

1 thank you so much. I am proud to have
2 worked with each and every one of the
3 members of the team. And I'm proud of
4 what we've accomplished together in
5 five years, and I pray that it will
6 go, again, five years and beyond and
7 Colwyn stays financially sound. Thank
8 you.

9 HEARING OFFICER:

10 Thank you, Councilwoman.
11 Are there any other interested parties
12 in presenting, to --- and to present
13 testimony tonight? Sure, please come
14 up.

15 MS. BROWN:

16 Hello. My name is
17 Kimberly Brown, longtime resident,
18 born and raised in Colwyn. Once
19 again, Kimberly Brown, B-R-O-W-N.

20 The testimony I want to
21 give is that I came to the meeting in
22 April 2015 when Act 47 came in to
23 present what changes they wanted to do
24 for Colwyn. And I really appreciated
25 them coming in and helping out with a

1 lot of changes.

2 Now that Act 47 wants to
3 pull out, I'm a little scared. The
4 only reason I'm scared is because you
5 have a new regime that's coming in.
6 And most of them doesn't know what the
7 --- with the whole world of Act 47
8 coming in. They didn't --- they, I'm
9 pretty sure they don't even have the
10 beginning of Act 47 nor the report of
11 the account given out in December. I
12 just don't want to go back to 2015 and
13 earlier. Because we came a long way.

14 Now Dan Connelly had
15 gave a report in December which a lot
16 of changes has been made in the
17 report. We no longer have a police
18 chief. So therefore, the overtime of
19 expending of the overtime that we will
20 be over budget again. The lawsuit has
21 finished, but there's another lawsuit
22 coming. So the lawsuit hasn't
23 stopped.

24 So I really think DCED
25 and Act 47 should at least wait until

1 the end of the year at least to see
2 how the new regimen's doing. Because
3 most of the new team that came on for
4 council really never came to a council
5 meeting. Being led the wrong way. I
6 would just hopefully they will go ---
7 next council will go and look at the
8 Act 47 from the beginning and look at
9 the new report. Because without
10 seeing in the Board meeting, this
11 takes us back to 2015 and earlier. So
12 I just think that Act 47 should at
13 least hold on until the end of the
14 year. Thank you.

15 HEARING OFFICER:

16 Thank you, Ms. Brown.
17 Any other interested party in
18 presenting testimony tonight? Okay.

19 With that, I would like
20 --- I would like to thank those in
21 attendance and those who provided
22 testimony at today's administrative
23 public hearing. All findings will be
24 presented to Secretary Dennis Davin
25 for his consideration as to whether or

1 not Colwyn's status as a financial
2 distressed municipality should be
3 terminated.

4 Per statute, this
5 decision will have to come within 90
6 days of today's hearing. With that,
7 this concludes. Thank you, and this
8 hearing will be adjourned at 6:27.

9 * * * * *

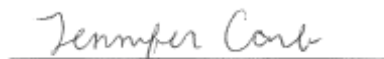
10 HEARING CONCLUDED AT 6:27 P.M.

11 * * * * *

CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

Dated the 21 day of January, 2022



Jennifer Corb,

Court Reporter

EXHIBIT D

Borough of Colwyn
Act 47 Status Determination Hearing
January 13, 2022
Recovery Coordinator Testimony

Good evening. My name is Dan Connelly and I work for a firm called Keystone Municipal Solutions. We are the Act 47 Recovery Coordinator for the Borough.

When the Borough entered the Act 47 distressed municipalities program in 2015, it suffered from major fiscal and managerial problems. The Borough had very weak financial management practices. It had not completed an independent financial audit in four years. It had accumulated almost \$1 million in past due payables, which was equivalent to about 60% of the Borough's operating budget. The Borough's mismanagement led to the state withholding pension and liquid fuels aid. The Borough suffered from a high rate of workforce related lawsuits, which resulted in costly insurance premiums and deductibles. In addition to past due payables, the Borough faced a structural budget deficit which further undermined the fiscal position.

The Borough adopted its original Recovery Plan in December 2015, which was designed to strengthen the Borough's management infrastructure and set a course for structural budgetary balance. The elected officials, Borough staff, DCED, and the Recovery Team worked together to implement the plan (and two subsequent plan amendments) which has Colwyn positioned to emerge from Act 47 status.

The Borough can tout significant accomplishments over the last six years. It funded operations and eliminated or restructured outstanding liabilities without increasing its real estate millage rate, which was among the highest in Delaware County. The Borough restored pension and Liquid Fuels funding and unlocked funding from previous years that was being withheld until compliance issues were resolved. Expense reductions and revenue enhancements allowed the Borough to rebuild its fund balance position and put it on solid financial footing. The Borough just passed a 1% resident and non-resident earned income tax to secure future budgets and fund capital needs.

While improving the fiscal position is obviously very important to the Borough's recovery, overcoming distress is not possible without strengthening management capacity. The Borough previously did not have the ability to produce accurate and timely financial reports to elected officials, which was corrected. It is now up to date on their independent financial audits. The Borough secured changes in its labor and employee agreements which are important to the managing operations efficiently. Colwyn developed a capital improvement plan that identifies funding sources to address maintenance and improvement needs. And, of course, the Borough is actually investing in those needs.

The Recovery Team evaluated the criteria delineated in Act 47 to rescind distressed status and made a recommendation in our report dated December 16, 2021. These criteria include that:

1. The Borough's audited financial statements demonstrate a reasonable probability of future balanced budgets outside of Act 47.
2. There is a reasonable probability that the Borough should be able to continue timely debt service payment 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 reasonable projected revenues of the Borough are sufficient to fund ongoing necessary expenditures (five-year projection), including pension and debt obligations and the continuation or negotiation of collective bargaining agreements and the provision of municipal services.

Based on our review of the statutory factors outlined in Act 47, the Recovery Team's recommendation is to rescind the Borough's distressed status. Thank you.