

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

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IN RE: : REQUEST FOR RESCISSION OF  
: STATUS UNDER SECTION 253 OF THE  
BOROUGH OF WEST HAZLETON : MUNICIPALITIES FINANCIAL  
: RECOVERY ACT  
:

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REQUESTING PARTY:

The West Hazleton Borough, Borough Council, in cooperation with the Recovery Coordinator,  
Pennsylvania Economy League, Central PA, LLC.

**DEPARTMENTAL ORDER**

AND NOW, this the 21<sup>ST</sup> day of October, 2014, upon review of the record of the hearing held on  
June 3, 2014, the recommendations of departmental staff and the Recovery Coordinator along with  
other considerations, the above-captioned request is granted.

IT IS ORDERED that the status of Borough of West Hazleton, Luzerne County as a  
distressed municipality under the Municipalities Financial Recovery Act, Act 47 of 1987, as amended,  
is rescinded.

By: C. Alan Walker  
C. Alan Walker,  
Secretary

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## FINDINGS OF FACT

Testimony was presented at a public hearing held Tuesday, June 3, 2014 to rescind the distress determination for the Borough of West Hazleton, Luzerne County, from a Determination of Distress under the provisions of Act 47 of 1987, the Municipality's Financial Recovery Act. The purpose of the hearing was to gather information on the Borough's financial condition to help the Secretary of the Department of Community and Economic Development (DCED) determine the Borough's financial condition, and to inform the citizens, employees and officials of the Borough of West Hazleton of the Act 47 rescission process.

The information that follows was presented by the Recovery Plan Coordinator, the Borough Council President, the Borough Council, the Borough Manager, the Department of Community and Economic Development and citizens.

Evidence was presented that demonstrated the eligibility of the Borough to rescind from the Act 47 Municipality's Financial Recovery Program. No testimony was received that contradicted the evidence presented at this hearing.

West Hazleton Borough has resolved all provisions of Act 47. Act 47 process requires a public hearing prior to rescission consideration from the program.

The Borough of West Hazleton Revenue and Expenditure History, Fund Balance History, Governmentwide Fund Balance History, and Revenue and Expenditure Projections indicate a clear financial recovery.

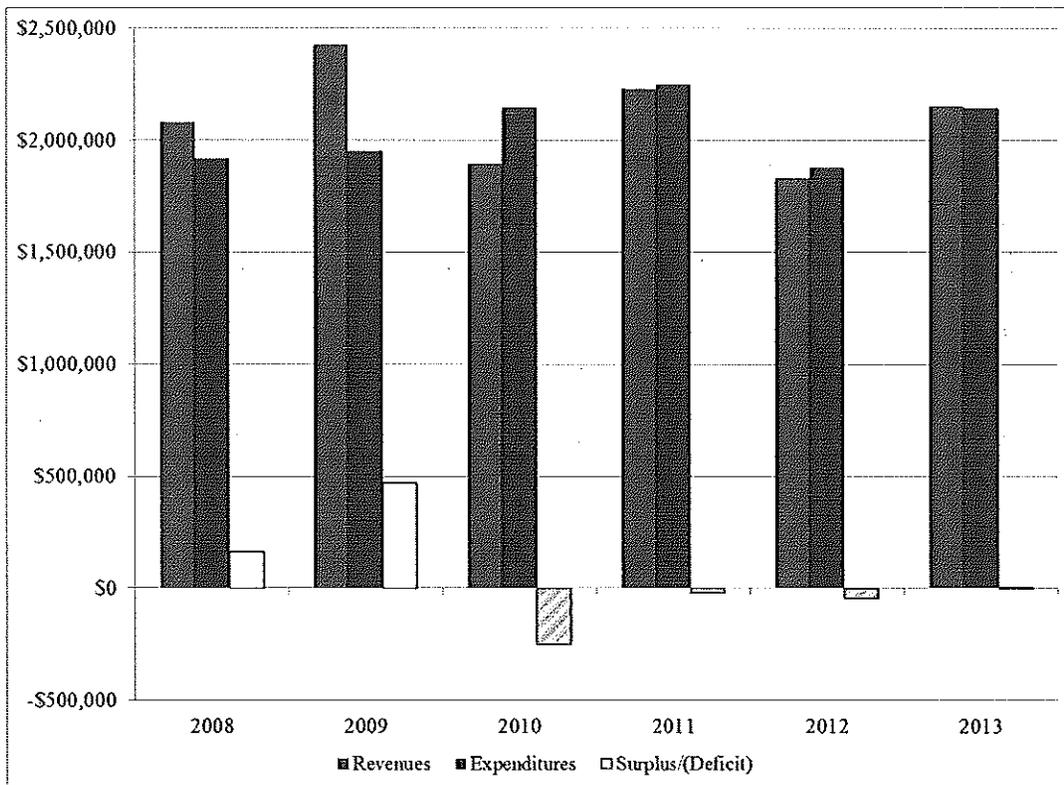
West Hazleton collected almost \$2.1 million in revenue for 2008. Revenue collections then fluctuated throughout the period, reaching a high of \$2.4 million in 2009 and falling to a low of \$1.8 million in 2012 before ending at over \$2.1 million in 2013. Expenditures amounted to approximately \$1.9 million in 2008 and 2009, increased to \$2.1 million in 2010, and to \$2.2 million in 2011, decreased to \$1.9 million in 2012, and increased to \$2.1 million in 2013. The Borough ended 2008 and 2009 with substantial operating income surpluses, but experienced operating deficits for the next three years, starting with a \$250,804 shortfall in 2010, a \$21,011 deficit in 2011, and a deficit of \$45,590 in 2012, before ending 2013 with an operating surplus of \$5,423.

<b>Table 1 - Net Operating Revenue and Expenditures- General Fund</b>			
	<b>Revenues</b>	<b>Expenditures</b>	<b>Surplus Deficit</b>
<b>2008</b>	\$2,075,985	\$1,914,124	\$161,861
<b>2009</b>	\$2,421,702	\$1,950,083	471,619
<b>2010</b>	\$1,890,342	\$2,141,146	(\$250,804)
<b>2011</b>	\$2,226,438	\$2,247,449	(\$21,011)
<b>2012</b>	\$1,827,473	\$1,873,063	(\$45,590)
<b>2013</b>	\$2,147,844	\$2,142,421	\$5,423
<b>Total</b>	\$12,589,784	\$12,268,286	\$321,498
<b>Source: Independent Audit Reports and Borough Financial Reports</b>			

**Examination of the Fund Balance History**

**General Fund Unassigned Fund Balance History**

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Surplus/(Deficit)</b>	\$161,861	\$471,619	(\$250,804)	(\$21,011)	(\$45,590)	\$5,423
<b>Cumulative</b>	\$161,861	\$633,480	\$382,676	\$361,665	\$316,075	\$321,498



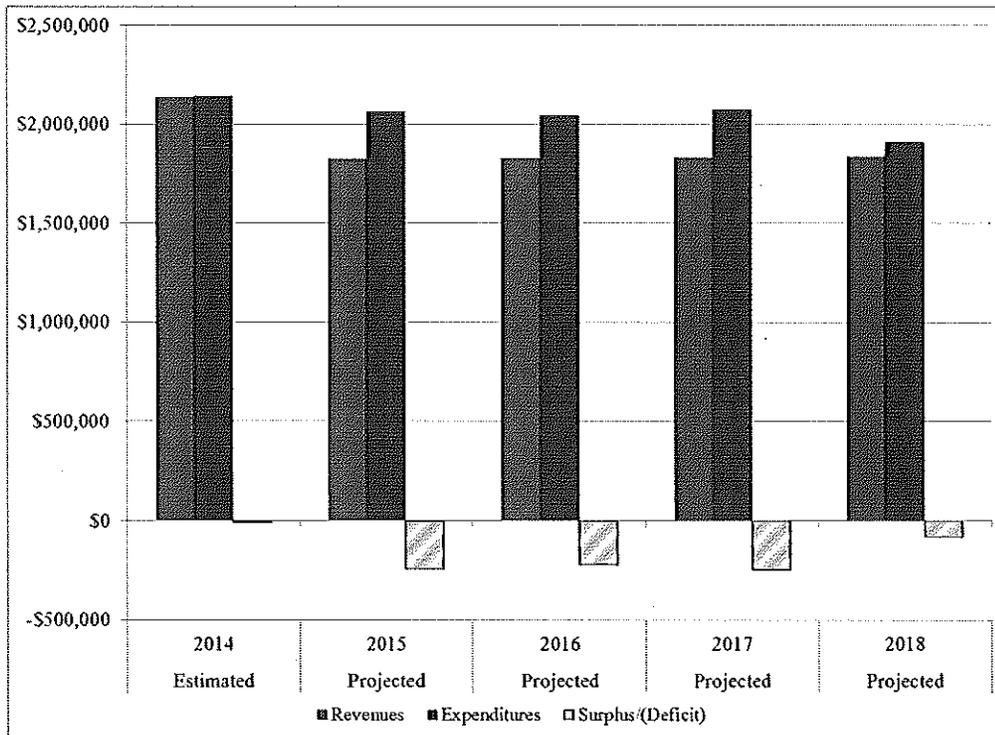
The substantial operating income surpluses in 2008 and in 2009 were due to the over-collection of the increased resident EIT by the Borough's EIT collector. Centax improperly applied the increased resident EIT rate under Act 47 to non-residents working in the Borough. The Borough collected over \$860,000 in excess EIT from 2008 through 2010. At the direction of the Recovery Plan Coordinator, the Borough placed this excess EIT in a reserve account, and in 2010, after a review by the EIT collector and the Borough Solicitor, these excess funds were returned to Centax.

In order to assist Borough officials with financial forecasts as part of the Act 47 exit plan, PEL has prepared projections of the Borough's fiscal position for the years 2015 through 2018, using the adopted 2014 budget as the baseline for the projections. The Borough's exit plan represents the fiscal road map for the Borough to follow into the future. These financial projections provide the Borough's elected officials and staff with a guidepost for necessary fiscal decisions that will be required to prevent and eliminate operating budget deficits.

PEL projects that total revenues will decrease by 14.2% or \$302,449 from an estimated \$2.1 million in 2014 to a projected \$1.8 million in 2018. The 2018 revenue decrease is primarily a reflection of the anticipated decline in grant revenue and in the decrease of transfers from the Liquid Fuels Fund to the General Fund in order to balance any revenue shortfalls in the General Fund revenue base. Total expenditures are projected to decrease by 10.8% or approximately \$232,402, decreasing from just over \$2.1 million in 2014 to just under \$2.1 million in 2017 and then dropping again to \$1.9 million in 2018. The 2014 estimated deficit of \$7,481 increases to a projected deficit of \$244,623 in 2017 and then declines to a projected deficit of \$77,529 in 2018. The cumulative deficit from 2014 through 2018 is projected at \$789,206.

**Table 3-1 — General Fund Revenues Expenditures and Surplus/(Deficit) 2014 - 2018**

	Estimated	Projected	Projected	Projected	Projected	Change	
	2014	2015	2016	2017	2018	\$	%
Revenues	\$2,135,249	\$1,821,548	\$1,825,258	\$1,829,008	\$1,832,800	-\$302,449	-14.2
Expenditures	2,142,730	2,061,612	2,044,767	2,073,631	1,910,329	-232,402	-10.8
Surplus/(Deficit)	-\$7,481	-\$240,064	-\$219,509	-\$244,623	-\$77,529		
Cumulative Surplus/(Deficit)	-\$7,481	-\$247,545	-\$467,054	-\$711,677	-\$789,206		



As the Coordinator, PEL reviewed the Borough’s financial history and developed financial projections for the Borough through the fiscal years 2014 – 2018, using the Borough’s 2014 budget as the baseline for the projections. The Borough Mayor and Council will have to make some tough budgetary decisions within fiscal years 2015 to 2018 to reduce expenditures or increase taxes to achieve a balanced budget.

The Borough will need to take the appropriate fiscal action to eliminate these projected deficits in each of the fiscal years, beginning in the 2015 fiscal year. The projected operating deficit for the 2015 fiscal year amounts to \$240,064, or the equivalent of approximately 1.25 mills of real estate tax based on the Borough’s 2014 assessed valuation and collection rate. The projected deficit in 2016 amounts to \$219,509, and the projected deficits in 2017 and 2018 amount to \$244,623 and \$77,529 respectively.

The Borough can also reduce operating expenditures if these reductions can be made without jeopardizing the health, safety, and welfare of the Borough's citizens, businesses, and visitors. The real estate tax is the only revenue source available to the Borough under current law that can provide the funds necessary to eliminate the projected deficit and to fund any expected increase in service levels. The Borough can examine options relating to Home Rule consideration and implementation that could potentially provide other revenue producing options.

The Borough should continue to pursue grant funding for capital improvement projects for both public works and parks and recreation. The Borough has already taken the necessary action to increase refuse fees to fully support the collection of refuse, and other charges for services are directed toward the same intention.

The Exit plan as prepared by the Coordinator does not contemplate any reduction in the current levels of services as provided by the Borough. The restoration of full-time police service was a critical tenet of the Borough's Revised Recovery Plan in 2007. This service remains essential to the citizens, businesses, and visitors to the Borough. Public works operations are vital to the operation of the Borough, as are the increased duties.

### **Formal Testimony from Public Hearing**

The following discussion will focus on the actual hearing testimony that was conveyed at the public hearing. As Hearing Officer, I (Peter Zug) conducted the public hearing.

Joseph L Boyle, Senior Research Associate, PEL, the Borough's Recovery Plan Coordinator, presented the results of Borough's efforts under the 2003 and 2007 Recovery Plans.

From the 2003 fiscal year through the 2007 fiscal year, the Borough was able to maintain essentially balanced fiscal operations as required by the 2003 Recovery Plan. These operations under the 2003 Recovery Plan included a very modest provision of municipal services. As the Borough progressed through the 2003 Recovery Plan, Borough officials, responding to the needs and concerns of the citizens, expressed the goal of restoring increased levels of municipal services, particularly police services.

As part of implementing the 2003 Recovery Plan, the Borough reduced its police force to one full-time officer and relied on the Pennsylvania State Police to provide coverage when the lone officer was not on duty. By 2006, this level of police service was increasingly unacceptable to the Borough's residents. Alternative police services provisions suggested in the 2003 Recovery Plan such as contracting with the City of Hazleton and the establishment of a regional police force did not prove workable or fiscally feasible for the Borough.

In 2005, the Borough contracted out the provision of refuse Works operation. Public works now was responsible for streets and roads, recreation, vehicle maintenance, and other ongoing operations in the Borough. Fire operations have continued at the level described in the 2003 Recovery Plan and were to remain at that current level of service provision.

During meetings with the Coordinator to discuss revision of the 2003 Recovery Plan, the key element expressed by Borough Council was the provision of increased police services in the Borough. Ongoing socio-economic and demographic changes in the Borough, as well as the inability to develop alternative means of providing police services, led Borough Council to begin to increase the provision

of police services in the Borough. In recognition of this public safety issue, the Coordinator worked with Borough Council and DCED to develop a revised 2007 Recovery Plan that reflects the increased provision of police services.

A plan to add one full-time police officer in 2008 and use part-time police officers to provide 7,000 hours of coverage per year placed the Borough in an annual deficit position in each year of the revised 2007 Recovery Plan (2008, 2009, and 2010). The revenue structure of the Borough was not sufficient to provide the resources needed to fund this increased level of services.

After discussions with Borough Council, other Borough officials, and with DCED, Borough Council and the Recovery Plan Coordinator structured a financial plan for the three year period of the 2007 Recovery Plan. This financial plan was based on the increase of the Earned Income Tax (EIT) rate for Borough residents from 0.5% to 1.0%, effective in 2008 and 2009, and reduced to 0.75% for 2010. This increased level of EIT taxation provided sufficient revenue to support the increased level of police services desired by the Borough, and also provided some resources for capital spending.

The Borough will retire the Act 47 loan in January 2015. Current monthly reports and recent audits indicate that the Borough continues to perform sound financial management practices, and deficits have been eliminated. Monies have been transferred to capital funds, and recommendations in this exit plan suggest that the Borough establish a budget reserve. The commitment of the Borough's elected officials, the Borough Administrator, Assistant Administrator, and Borough staff over the last several years to adhere to the recommendations of the recovery plan should be commended.

**In compliance with Section 253 (a) of Act 47, it is the opinion of the Pennsylvania Economy League, Inc., Central PA LLC, (PEL) that the conditions that led to the earlier determination of municipal distress are no longer present. As the Coordinator, PEL recommends that the distress status of the Borough of West Hazleton be rescinded.**

The Borough now has a consistent series of revenue streams to provide realistic and affordable service levels. Changes to the financial management of the Borough allow the elected officials and the Borough Administrator to deal with those factors that led to the original distress determination.

Reassessment has provided an enhanced and stable real estate tax base that permits the Borough to fund current service levels and to increase those levels of service if warranted. It is now the Borough's responsibility to remain vigilant and to actively manage the provision of Borough services within the context of the fiscal and management resources available to the Borough.

After Mr. Boyle concluded his testimony, the Hearing Officer asked if members of the audience would like to speak. Three Members of Borough Council offered testimony.

Mark Yeager, President of the West Hazleton Borough Council, offered the following testimony. Council President Yeager began by thanking previous Councils and especially Mayor Carl Puschauer for their efforts in the initial stages of the recovery process. These officials began the work with PEL and DCED and developed the 2003 and 2007 Recovery Plans.

Mr. Yeager also reiterated that he and other Members of Council felt that DCED should provide additional assistance to the Borough (and other municipalities exiting Act 47) through the Early Intervention Program (EIP) and that Council would petition DCED through an application for an EIP assistance grant.

Also, providing testimony was James 'Bucky' Kulaga, Member of Council. Mr. Kulaga as a long-serving member of the Council was able to provide a multi-year perspective of the Borough's progress under Act 47. Mr. Kulaga focused his testimony on the various areas of difficulties that eventually forced the Borough to ask DCED for the Act 47 distress determination. Mr. Kulaga also mentioned former Mayor Puschauer and praised his work in the initial stages of the Act 47 process. Mr. Kulaga recounted the difficulties that previous Councils faced in coping with the Borough's financial difficulties and complimented DCED for coming to the Borough's aid, particularly with the Act 47 loan for \$800,000. That Act 47 loan effectively allowed the Borough to continue to operate, to pay past bills, and to embark on the recovery process. Mr. Kulaga also reiterated the request made by Council President Yeager for continued assistance to the Borough as the Borough enters the transition from the Act 47 process.

Paul Platukis, Member of Council, also offered testimony, thanking DCED and the Recovery Plan Coordinator for helping and guiding the Borough through difficult financial times.

Marita Kelley, Local Government Policy Manager with the Governor's Center for Local Government Services in DCED, offered testimony for DCED.

Ms. Kelley praised Borough Council for encouraging sound fiscal practices and diligent financial management. The Borough's audits from its independent CPA firm for the past several have reported no significant findings. Full-time police and 24/7 police coverage have been restored to the Borough.

The Borough recently sold the sewer system to the Greater Hazleton Joint Sewer Authority and the Borough is no longer responsible for the maintenance of the sewer lines in the Borough. The Borough is working with DCED and the City of Hazleton to establish a fire compact between the two municipalities. The Borough's two full-time firefighters retired in 2011 and the Borough now relies on a volunteer fire company for fire services.

The Borough is working to further develop its capital budgeting process and capital improvement planning. The Borough Administrator, Assistant Administrator, and Borough Council still need to institute a budget process that involves all Borough management, staff, and the Council Finance Committee in the budget development structure. The Early Intervention Program (EIP) program can be of assistance in helping to further institutionalize this process. Ms. Kelley concluded her remarks by commending the Borough and PEL for the progress made in getting the Borough to this point of requesting rescission of the Act 47 determination.

In closing, I thanked all those present for their testimony and interest in the Borough's financial condition. I indicated that the Department will consider all factors as they review the final Exit Report and related testimony for this hearing. I also indicated that the testimony will be reviewed and a recommendation will be made to Secretary Walker who will render a decision.

#### **CONCLUSIONS:**

The Borough of West Hazleton financial condition has significantly improved during the recovery period. The commitment of the Mayor, Borough Council President, Borough Council, Borough Administrator and staff over the past several years to adhere closely to the recommendations of the Recovery Plan is admirable. The analysis of the Borough's financial position reflects the financial improvements that have occurred and form the basis for the recommendation by the Recovery Coordinator that the Borough of West Hazleton should rescind from the distressed municipalities program.

The analysis supports the fact that the conditions that initially led to the Borough's distress status no longer exist, and the Borough's Council is in full agreement that Borough of West Hazleton shall Exit Act 47 the Municipalities Financial Recovery Program at this time.

It is Commonwealth policy, as stated in Act 47, "to foster the fiscal integrity of municipalities so that they provide for the health, safety and welfare of their citizens; pay principal and interest on their debt obligations when due; meet the financial obligations to their employees, vendors and suppliers; and provide for proper accounting procedures, budgeting and taxing practices."

Based on the testimony presented at the public hearing and evidence gathered through the consultative investigation, the Borough of West Hazleton meets the criteria for rescission of distress status. Further, based on the testimony presented at the hearing the Borough of West Hazleton's Borough Council is in full agreement.

I recommend that for the above reasons the Borough of West Hazleton be declared rescinded as a distressed municipality under the provisions of the Municipalities Financial Recovery Act, Act 47 of 1987.

Respectfully submitted,

A handwritten signature in cursive script that reads "Peter Zug".

Peter Zug, Hearing Officer  
Executive Director  
Governor's Center  
For Local Government Services

# NOTICE OF HEARING

# REQUEST FOR DETERMINATION OF DISTRESS

# STENOGRAPHIC RECORD

# ATTENDANCE LIST FROM PUBLIC HEARING