

# DWH Brief in Opposition Exhibit 6

Mayor: Bankruptcy Not An Option

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## HARRISBURG PA FACES POSSIBLE BANKRUPTCY, MAYOR LINDA THOMPSON AND COUNCIL STATES

March 25th, 2010 | Author: *Joe Bochicchio*

How bad is Harrisburg's PA financial crisis? Consider this: The city's financial rating has dropped twice since October, and currently sits at junk bond status, but that's not the worst part. The city may not be able to meet payroll in two weeks and will very likely default on just over \$2 million in debt payments due March 1. Even that's not the worst part.

This year, the city owes an additional \$66.7 million in debt payments — more than the entire annual city budget. Much of the problem stems from the Harrisburg Authority's \$288 million in incinerator debt, which Harrisburg has guaranteed. The crisis has already drawn national attention from CNN, Bloomberg News and The Wall Street Journal.

Mayor Linda Thompson's \$65 million budget proposal called for raising property taxes by 20 percent and water bills by 40 percent, but it did not include any concrete plan to deal with the staggering debt payments due this year. That drew sharp criticism from some members of the public, as well as City Controller Dan Miller. Miller is pushing for the city to look into municipal bankruptcy as a possible solution.

Thompson refused to comment for this story. She said at a press conference on Jan. 26 that "bankruptcy is not on my table as an option." But what happens if the city pursues the dreaded "b" word? And what are its other options?

### BANKRUPTCY

Since 1981, only four Pennsylvania municipalities have sought Chapter 9, the municipal version of bankruptcy protection, in federal court. It worked for Westfall Twp. in the Poconos. The township of about 2,400 people lost a \$20 million lawsuit to a developer. With a \$1 million annual budget, the judgment far outstripped Westfall's ability to pay and the town filed for bankruptcy last April. A judge reduced the debt from \$20 million to \$6 million, and a special tax was placed on Westfall's residents to pay it.

That's why Dan Miller thinks Harrisburg should pursue the idea. "The main thing about this municipal bankruptcy is that it adjusts the (\$288 million) debt," Miller said. "If we could reduce that to \$100 million through municipal bankruptcy, we don't have to sell any of our assets."

Bankruptcy has two other advantages, Miller argues. First, a federal judge must approve the city's rescue plan. Because of the separation of powers between the

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federal and state governments, the judge cannot "order or decree in the case" by telling a city what to sell — for example, "Your plan must include the sale of City Island." Harrisburg, Miller argues, actually retains the greatest control over its own destiny by filing for bankruptcy.

At the same time, under bankruptcy, the burden must be shared equally by everyone, not just the creditors," says Michael Pagano, a municipal finance expert at the University of Illinois-Chicago. The judge's main role in municipal bankruptcy is to ensure that all parties are sacrificing and sharing the pain — from taxpayers to labor unions to creditors.

From Miller's point of view, the other advantage is that bankruptcy will almost certainly force the incinerator bondholders to the bargaining table. The judge has the ability to "cram down" an agreement on the bondholders, whether they like it or not. Rather than leave their fate in the hands of a judge, the bondholders are likely to try to make their own bargain with the city.

However, at this point, neither Mayor Thompson nor City Council are exploring bankruptcy — at least publicly. "No one has ever brought this to the table," Miller said. "It's not in our emergency plan. It's nowhere to be seen."

**ACT 47**

Act 47 is designed to keep cities from filing for bankruptcy. In return for accepting state supervision of its rescue plan, the city may receive state loans to maintain basic services. Those loans must be repaid.

Last September, the city of Reading filed for Act 47 status. Mayor Tom McMahon told the Reading Eagle that while no one wanted the "distressed city" stigma of Act 47, "the stigma of municipal bankruptcy" was far worse.

Still, Reading's situation is radically different from Harrisburg's. Reading faced a \$13 to \$18 million budget shortfall in 2010 due to its basic financial situation. "Quite simply, the gap between the city's revenues and expenditures has grown significantly based on an unworkable structure," a study group's report said. "The costs of pensions, health care, labor and general operations keep rising and revenue from taxes and fees can't cover those costs."

Under Act 47, municipalities normally attempt to renegotiate with creditors and labor unions. They are not forced to negotiate. But most parties recognize that they're better off coming to the table voluntarily than under bankruptcy, where a judge can force them to accept an even harsher agreement.

While Harrisburg faces its own financial squeeze due to basic operating expenses, it is the huge looming debt payments that threaten to swamp it. Unlike a bankruptcy judge, the state under Act 47 cannot reduce a city's debt. But the hope would be that bondholders would voluntarily offer to renegotiate a lower debt, rather than risk the decision of a bankruptcy judge.

Some business leaders favor Act 47 over the "b" word. "Bankruptcy would be an albatross to have hung around the city that could negatively impact the city for decades," said David Black, president of the Harrisburg Regional Chamber of Commerce. "The stigma attached to Act 47 is not the same."

**TAX, CUT AND SELL**

Late last year, the consulting firm Management Partners was hired to find a way out of Harrisburg's crisis. Midway through its work, the firm issued a warning that the city might not be able to act quickly enough to avoid Act 47. But when Management Partners and Thompson presented the firm's report on Jan. 26, they did not discuss Act 47 at all.

Instead, they listed 21 actions the city could take in an effort to avoid bankruptcy. Those included selling assets like the parking garages or the incinerator itself. It's a common remedy. The city of Pittsburgh, arguably the largest bankruptcy scare in Pennsylvania history, sold off its water plant in 1995 in a last-minute deal to avoid bankruptcy.

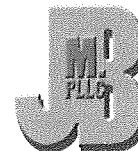
Other suggestions by Management Partners included furloughing city workers and freezing their wages, doubling the parking tax, and sharply increasing water and sewer rates. Thompson's budget did include much higher new utility rates.

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Critics have said that Management Partner's ideas would provide more operating cash but not pay off enough of the incinerator debt, and would only create other problems. Harrisburg's water, sewer and parking garages are the most valuable assets that someone would actually want to buy, said Controller Dan Miller.

"Last year, they generated \$18.5 million in revenue for our city's budget," Miller said. "That's more than our real estate taxes generated. My big concern with this plan is: We sell those assets this year to pay off some debt service. What are we going to do next year with an \$18.5 million hole in our budget?"

The idea of Dauphin County as a savior also seems unrealistic. County financial adviser Jay Wenger has made it clear that Dauphin County does not intend to swoop in and start paying the city's debt. The county commissioners have also urged Harrisburg to sell assets. But even if it did, Miller argues that these and other recommendations by Management Partners will take too long to avoid defaulting on the upcoming loan payments.

He may be right. The city of Reading hired Management Partners back in 2006 to help with its financial crisis, and the firm made recommendations similar to those it suggested in Harrisburg. "Recommendations are easier made than implemented," said Chief of Staff Chris Kanezo.

About the Author: Joseph M. Bochicchio, PLLC., is a licensed [Charlotte, NC Bankruptcy Lawyer](#) with nearly 2 decades of experience in finance and law. His [Charlotte Debt Settlement Law Firm](#) is committed to providing legal and ethical guidance for North Carolinians facing financial hardship.

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# Act 47 Updates

## Media Alert – Mayor tells City Council to “get in gear or get out of the way”

By Webmaster · September 19, 2011 ·

### Mayor Thompson Tells Council to “get it in gear, or get out of the way” before State “Take Over”

(Harrisburg) — City Mayor Linda D. Thompson called on City Council today to “get in gear and get moving on revenue initiatives” that have been lingering in committees for more than a year, before the General Assembly and Governor Tom Corbett shut Council down.

Mayor Thompson pointed to further delay at the recent Council committee meeting on parking tax and fee increases, measures the Mayor’s Administration put before Council more than a year ago. “The inexcusable and incompetent delay by some council members continues to weaken City governance and cost our citizens revenue losses every day.” The Mayor said.

“This Council has about three weeks to move all the revenue increases it can to offset future revenue short falls, before the State removes their financial decision making authority moving forward.” The Mayor said some council members, “have no idea what they’re doing” and cited two bills which could be generating revenue from codes violations as well as put pressure on slum landlords operating in the City.

The two measures, which would amend the inspection codes on residential rental units and buyer notification

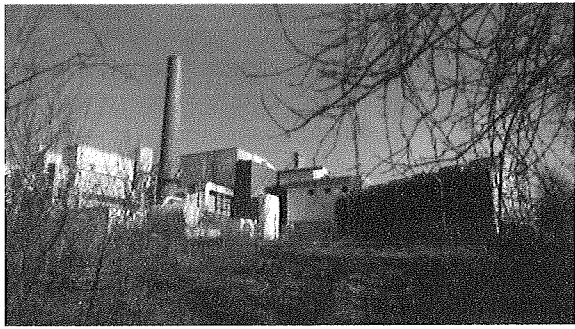
inspections, have been stalled for more than a year by Council member Brad Koplinski's Build & Housing Committee.

"Mr. Koplinski has repeatedly demonstrated his incompetence in financial matters, his reliance on 'insider' rumors in the midst of serious financial transactions, and his inability to grasp even the most basic cash-flow information," the Mayor said. "Frankly I have to question why he continues to stall rather than move these two bills forward for full Council vote." Mayor Thompson added. The City Department of Codes Enforcement estimates revenue gained from the two bills held-up in Koplinski's committee for more than a year would have reached \$235,000 this year alone, if passed when introduced by the administration.

Instead, revenue from residential rental and buyer codes inspections will be only about \$90,000 in 2011. "Why have these measures, which would strengthen City control over slum landlords as well as more than double current revenue, been held up by Mr. Koplinski?" Mayor Thompson asked. "This revenue could have been used to increase our codes inspectors, which would increase codes inspections, reduce slum lord violations, and further increase revenue." The Mayor said. "Or we could have added police or fire personnel to the City."

Mayor Thompson said the damage done to city governance and the financial future of Harrisburg by Council members Wanda Williams, Susan Brown-Wilson, Brad Koplinski and Eugenia Smith renders them unfit for public office. "They are the direct cause of the so-called historic 'take over' the legislature and governor will soon implement; and they are the direct cause of the City's current 'high interest' financial situation." The Mayor added.

(Please click link below to access document)



This past Tuesday, Pennsylvania's capitol city, Harrisburg, voted 4-3 to seek bankruptcy protection. The City Council has cited that, "overhaul and expansion of a trash-to-energy incinerator that doesn't generate enough revenue," is the main cause of this bankruptcy. According to Bloomberg Businessweek, this is the main cause of the City's debt burden which has become five times its general fund budget.

The vote for Bankruptcy was not a landslide by any means by Harrisburg's City Council. The vote of 4-3 shows that members of the Council are divided in the decision. Moreover, according to PennLive.com, State Senator Jeffrey Piccola can be quoted saying, "I have been on the record as saying that bankruptcy is simply not an option. It's illegal under Pennsylvania law, which prohibits third class cities from filing for bankruptcy,".

Since this vote occurred on Tuesday, the Council's vote has been deemed by Mayor, Linda Thompson, to have "no force and effect". The passage of those resolutions, without having been approved by the Office of the Solicitor prior to introduction, is a violation of City Ordinance 1-201.1(d). Although the resolution was passed at the City Council meeting, Mayor Thompson has said she will take no action to file for bankruptcy and will not hire an attorney to pursue bankruptcy at this time. This action alone will place a full hold on the City Council's decision. This appears to be a wise move on Mayor Thompson's behalf. Not only because of the clear violation of the City's own municipal code, but also given the fact that filing for bankruptcy is extremely unpopular with the registered voters of the City. A survey conducted this week by ABC27 News of about 1,000 registered voters found overwhelming rejection of bankruptcy as an option for city financial recovery. "The survey found only 15% of registered voters in Harrisburg think bankruptcy is a good idea," Mayor Thompson said. "And I agree with them." "I will proceed with the implementation of my recovery plan, and I welcome any constructive ideas members of City Council might bring to the current recovery plan before the Senate and the Governor take action on SB 1151 next week."

Finding immediate solutions to a debt burden of \$500 million compared to \$100 million in assets (foxbusiness) is not a task that will occur overnight. However, with proper Municipal Marketing techniques, it is possible to develop new, long-term revenue streams that can help balance the budget in Harrisburg. Before this can be accomplished though, a budget audit absolutely needs to be performed by a non-bias, third party company. Yes this will cause the City to incur an additional expense, but it is a necessary step to determine where the budget can be adjusted. Finding areas in the budget above and beyond the trash-to-energy incinerator issue that can be replaced with digital revenue is paramount to turning the tables on this bankruptcy.

Additionally, in a third class city such as Harrisburg, the public needs to be notified of major issues such as the trash-to-energy incinerator issue. It's obvious from the 5:1 debt ratio that either the original study projecting revenue from this item was severely miscalculated or the downward trend was not effectively communicated to the public. Municipal Marketing 2.0 specializes in increasing the communication between a municipality and its residents. This type of situation seems as though it could have been avoided by providing a better vehicle for the residents to communicate and to be informed of City issues.

For more information on increasing revenue streams and communications with residents, for municipal social media management, and for budget audits, please contact Municipal Marketing 2.0 today!

Website: <http://www.muni2.com>

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For the original article by The National Journal, [click here](#).

For the original article by Fox Business, [click here](#).

# San Diego Not the Only City to Contemplate Bankruptcy

On behalf of Bankruptcy Legal Group posted in [Insolvency](#) on Thursday, January 28, 2010

It looks like San Diego is not the only city in America contemplating [bankruptcy](#). The Pennsylvania city of Harrisburg may be next on the list.

On Monday, Harrisburg Mayor Linda Thompson, told reporters at a City Hall news conference that the city has a budgetary gap of \$3.8 million, which is expected to grow to \$164 million in the next five years. The city of Harrisburg currently owes \$68.7 million in guaranteed debt-service payments this year, according to a [report](#) by the city's consulting firm, Management Partners. The management firm has implemented an emergency financial plan to nurse the city back to financial health, but such hopes may be somewhat too optimistic, given the city's massive debt.

Although not mentioned in the press conference, the issues report mentions several deficit-reducing strategies the city could implement, including increasing taxes, increasing water rates, doubling sanitation fees, selling assets and increasing parking fines.

But optimism is low that the city can avoid insolvency. City Controller Dan Miller seems to think that bankruptcy may not be the worst option, claiming that bankruptcy would allow for flexibility in dealing with creditors.

"I think we should seriously explore bankruptcy because I think it's our best option," Miller said.

Mayor Thompson, however, was of a different mindset on Monday.

"Bankruptcy is not on my table as an option," said Thomson.

Bankruptcy may be the best option, though. And the semantic phobia of the word "bankruptcy" may cloud greater judgment. Often, people fear the "B" word and don't file bankruptcy, despite the fact that it may be the best option.

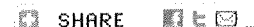
Interestingly, San Diego City Attorney [Jan Goldsmith](#) voices the same view over bankruptcy, claiming that it's not a fix for the city of San Diego's financial woes.

But perhaps if decision-makers can get past the ever-phobic "B" word, a greater good can emerge. Bankruptcy is not as scary as it sounds.

Tags: [Chapter 9](#), [Insolvency](#), [Municipal Bankruptcy](#), [San Diego](#)

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