

# Mayor's Act 47 Recovery Plan

## City of Harrisburg



As Filed with the City Clerk on August 22, 2011

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August 22, 2011

Ladies and Gentlemen:

The purpose of this letter is to formally submit the Mayor's Act 47 Recovery Plan for the City of Harrisburg and highlight key changes that have been made since the former Act 47 Coordinator's Plan was filed on July 8, 2011. I remind City Council that the City is currently realizing the cash flow impact of approximately \$6.6 million budget deficits from 2010 and 2011. As you are aware, our 2011 Mid-Year Fiscal Report shows projections for year end for all of the City of Harrisburg's budgeted funds. It also shows level of revenues and expenditures that reflect a shortfall in revenue and overages in expenses and a carryover of unpaid expenses from our 2010 budget. The Mayor had just 134 days to develop and release this Plan and numerous meetings were held with elected and appointed officials of the City, The Harrisburg Authority, Harrisburg Parking Authority and Dauphin County; Assured Guaranty Municipal (AGM), and community stakeholders. A public meeting was held on August 9, 2011 at 6:00 p.m. with City Council in Council Chambers; and a formal public hearing was held on August 11, 2011 at 6:00 p.m. at the John Harris High School Auditorium. These meetings provided the Mayor and her Administration the opportunity to listen to all parties and, where deemed appropriate, make adjustments to the Mayor's Proposed Recovery Plan. Following are the key points in the Mayor's proposed Plan.

With regards to the debt solution, the Mayor will work towards seeking up dated written confirmations from Assured Guaranty Municipal (AGM), Dauphin County (the County) and the State describing their participation with additional financial commitment to the agreed upon debt solution described in the Mayor's Recovery Plan. In addition, Lancaster County Solid Waste Management Authority (LCSWMA) remains committed to their agreement to a decrease in tipping fees to the City of Harrisburg. However, The Harrisburg Authority (THA) should work to reduce the tipping fees and any other escalating cost that could be passed on to the residents of the City of Harrisburg. Both THA and the Harrisburg Parking Authority (HPA) have expressed their willingness to work with the City on the disposition lease of assets to make the debt solution possible. In addition, the goals of the sale or lease of assets have been clearly articulated. The recommendations are outlined below as to what I believe to be a reasonable procedure which the HPA should use to ensure transparency for the process used for the lease of parking facilities. The Administration has begun to discuss the process to commence working with the Authorities immediately and move forward with the process to dispose of/lease the assets as described in the Debt Chapter.

With regard to the City's structural deficit and the RRF debt, the Mayor made the following additional adjustments:

- The Mayor has formed a Pilot Task Force to examine the critical role of public private partnerships that exist with the City and the services that the City is mandated to provide

to its organizations, institutions, etc. and to encourage other tax exempt entities to voluntarily contribute to the City's Payment in Lieu of Tax (PILOT) program.

Property tax revenue is a necessary and critical percentage of the City's operating budget, and these revenues assist the City in maintaining essential basic services (i.e. police protection, snow removal, fire protection, street repairs, etc.). The City is host to both the State and County governments and combined they make up more than half of the City's tax exempt properties. The challenging economic times have led the state to reduce intergovernmental aid and make significant cutbacks in their Fire Protection Service Payments, to the City which over the years went from \$1.2 million down to \$487,000 to date. The Administration is seeking the support of Governor Corbett to increase the City of Harrisburg's payments to a rate that is commensurate to the service levels that the City provides from \$487,000 to \$3 million up to a maximum of \$5 million and appropriated annually in the State's budget.

While the PILOT program is designed to be a voluntary contribution, a study is necessary to determine the revenue the City would be entitled to collect if all tax exempt entities were taxed at a commercial rate. From that study, tax exempt entities would be asked to voluntarily contribute to the City an agreed upon percentage annual PILOT payment.

**While our City's crises is more eminent than other city's in the State, the recommendations that the task force would proposed is a good place to start for addressing the crises facing urban municipalities in Pennsylvania who are suffering from continued structural deficits.**

- Add a commuter tax as per the language in the ACT 47 stature "an increase in the Earned Income Tax pursuant to Section 123 (c) of Act 47 to include a rate above existing statutory limits on both residents and non-residents (commuters)," if the creditors and stakeholders fail to eliminate the \$26 million in stranded debt on the The Resource Recovery Facility. I will ask for an evaluation of the impact of a commuter tax and ask Council to work with the Mayor to hold at least one public hearing on a potential commuter tax so our City residents and other interested parties can understand the direct impact a commuter tax will have on them.

Existing statutory authority presently permits our City to request a commuter tax which must be filed and can only be awarded by the Commonwealth Court. I have consistently stated publicly I will petition the Courts for such a tax as required by the Act. Under the Local Tax Enabling Act, the municipality of residence has to first tax-up to the level they impose under the crediting provisions of the Act (p.354-355 of the former Coordinator's Plan.) It requires a resident earned income tax equal to the amount of the commuter tax.

A great deal of additional burden will be placed on the residents of the City of Harrisburg which is counter productive in the pain sharing by all stakeholders. Whether the commuter tax proposal will ultimately be decided by the Commonwealth Courts and if it is awarded, it will have a greater impact on our City residents. To offset the City's \$310 million debt and its annual escalating structural deficits through the imposition of a commuter tax is risky because the Commonwealth Court authorizes the commuter tax annually and is not guaranteed nor permitted to be permanent. Stranded debt under the current Senate Bill 1499 could be a cause for our creditors to decline and reject any proposal that calls for using the commuter tax to pay

down and pay off debt with non-resident tax rates. It is not likely that our creditors will allow the City to rely solely on non-resident EIT revenue as a way to secure those revenues as collateral and/or use as leverage for paying off its debt especially with the Courts having to approve annually. However, the Courts do not restrict a municipality from using the Resident tax to go toward paying its deficits. The Courts will need the City to tell them what will be the specific use for the Non-Resident tax. For example, non-resident tax must be used for commuter-related expenses only.

- **A one percent sales tax was not included in the Mayor's Act 47 Plan.**

On the principle of law, it takes and requires an authorized branch of government, particularly the General Assembly, to invoke a County-wide sales tax. In April of 2011, I spoke with both Representative Ron Buxton and the Minority Chair Senator Vincent Hughes and Senator LeAnna Washington seeking their guidance and support for the introduction of legislation for a one percent County-wide sales tax to assist in our ability to provide those key public services that maintain the health, welfare and safety of both its residents and non-residents of our City. All three of these elected officials noted the unlikely success of the passage of such a law. Therefore, the one percent County-wide tax would be speculative at best and risk potential rejection of the Mayor's Plan by the Secretary of the Department of Community and Economic Development, (DCED).

In March of 2010 as a member of the Pennsylvania League of Cities and Municipalities (PLCM), I was asked to join 28 other Mayors across the State for the Core Communities In Crises Taskforce, which was designed to further engage government and concerned business communities to discuss local government reform measures. The Mayors involved with Core Communities in Crises Taskforce met to address issues related to local government structure and governance under its charge by the PLCM. The Taskforce identified several priority areas for critical, necessary and immediate action by the Governor and the General Assembly. Through coordination of the taskforce via monthly meetings, conference calls, meetings with the business community, DCED, legislative staff, and law firms; PLCM executive leaders and staff along with the Taskforce members were successful in bringing about and producing a "White Paper". The Paper included the development of strategic policy/legislative proposals with long term vision for core communities to share with Governor Tom Corbett, his Administration and the General Assembly. The Taskforce identified three aspects of crises for core communities: isolation of core communities within their regions; mandated costs, policies and procedures; and limited and constrained sources of revenue to finance the needs of our residents and non-residents. In addition a group of seven chambers of commerce have also completed the development of the Third Class Cities White Paper that addresses four key areas of local government reform – Pensions, Collective Bargaining/Binding Arbitration, Economic Development and Revenue Enhancement.

Collectively, the PLCM "Core Communities in Crises" Task Force and the business community with these seven Chambers of Commerce are providing an excellent opportunity to advance meaningful and reasonable government reform measures on critical impediments to the fiscal health of Pennsylvania's local governments.

As the Mayor of the Capital City of the Commonwealth of Pennsylvania, I am both honored and compelled to remain at the table as a key leader and influential stakeholder to see that sound and reasonable recommendations that we proposed will ultimately be given to municipalities with necessary latitude to raise revenue through taxation. In addition, we proposed that laws be

changed to allow such options as sales or liquor taxes where those taxes are not now permitted. Harrisburg, like many other cities in the State, is a creature of the State confined by the municipal code while the State only gives us so much leverage. Restrictions and outdated practices have hindered local innovation. In addition, the Task Force is asking the legislature and governor to change the collective bargaining laws so that arbitrators must consider a municipality's ability to pay before awarding police, fire, or non-uniformed contracts. I will stay at the table and continue to use the global and collective approach with other Mayors to seek Governor Tom Corbett's and the General Assembly's support to reform their archaic codes and inflexible local taxing structure that place severe financial hardship on our core communities.

After City Council's rejection of the original Act 47 Coordinator's Plan, this caused the automatic firing of the State's hired Coordinator. Because of the City's reduced staffing capacity and the need to implement a minimum of 150 non-tax initiatives, the implementation of the Plan will be a huge undertaking, and for us it will put a great deal of extra pressure on top of the existing pressure and stress the staff is already encountering. Progress is required in order to accomplish these initiatives, the end result of which is debt and structural deficit elimination. Therefore, I am seeking the State to provide the City technical assistance with the implementation of the Mayor's Act 47 Plan.

- The State provide the City technical and financial support to implement the Mayor's Act 47 Plan.
- City Council continues to seek the pro bona support and advice from Cravath and Swain for alternative models that the Administration can consider and realistically implement and be able to balance our Cities annual structural deficits. As a good faith demonstration, this is a good practice for City Council to commit to getting accomplished especially since we all understand the Mayor's Act 47 Plan is a living document.

While some City Council members and the Controller have consistently chimed the need to file for Chapter 9 municipal bankruptcy and or use the "threat" of filing; regardless, it ultimately lead other political officials to use their political muscle to arrest and handcuff both the Controller and the legislative branch of our government from using their statutory authority to file for Chapter 9 municipal bankruptcy. The Mayor has consistently weighed in on this critical discussion by proactively moving the Act 47 process forward since 2010 and publicly denouncing the actions of Senator Piccola for using draconian measures to cripple the City's ability to defend itself from uncooperative stakeholders who refuse to offer fair and equitable methods to eradicating our debt and for the most part mandated structural deficits. Through countless efforts, I note that Act 47 while in my belief is not a perfect plan however it is the best option. Filing bankruptcy should be used as an option of last resort.

Recommending the selling and or leasing of any viable revenue generating assets of our City is very painstaking. However, I have yet to see a more viable way to accomplish what I set out to accomplish in 2010. After thorough analysis over the duration of 2010 and half of 2011, my strategy for our City's recovery remains; dump our debt, scale back our government, and stay in a constant learning mode to practice better governing on behalf of our residents and non-residents. Therefore, I recommend that leasing the HPA garages and selling THA's Incinerator

are the best options we have to accomplish these arduous task getting our great city back to solvency.

- The State increase its contribution to the City's Fire Protection Services annually in the amount of \$2.5 million starting in 2012 and appropriate these funds annually in the State's budget.
- Petition the Courts for a 2.2 or a 2.5 percent commuter tax to aid the City in providing basic services in the event the creditors and or stake holders fail to eliminate the stranded debt that shall be dealt with by including a commuter tax as stated in the earned income tax pursuant to Section 123, © of Act 47 to include a rate above existing statutory limits on both residents and non-residents (commuters).
- Increase the Dauphin (county) aid to the City under the gaming funds from \$2 million to an additional \$1 million for the years 2012 – 2016. Taking the revenue from \$10 million to \$15 million.
- I support selling the RRF to the Lancaster County Waste Authority for the best and highest value. The Harrisburg Authority needs to negotiate for a fair and sound offer that increases sales proceeds and further reduces the City's tipping fees.
- Lease the HPA garages so we can further eliminate our debt on the RRF;
- Recommend THA's RFP addresses specifications that would attract competition for various options to be presented and vetted.
- Added that all parties involved in the RRF during the 2003 and or 2007 bond transactions not be permitted to participate in any restructuring/construction of debt and or involving transactions related to the Mayor's Act 47 Recovery Plan.

To ensure that the HPA gets the best and highest offer, the Administration has held several meetings with HPA's executive staff, its bond consultants, lawyers, and board of directors since 2010 to discuss the most appropriate and fair process. HPA's newly appointed Board of Directors and staff have kept the administration apprised of its direction with its business affairs and have met to discuss various important matters leading to its final decision to leverage the THA's garages. During our discussions, it was decided that the RFP for the garages should have the specifications that will call for and permit potential applicants to include in their proposal a combination of various options and years (i.e. sole concessionaire, or multiple vendors, combination of local investors) the HPA will be the sole evaluator of its proposals and will operate within its structured by-laws and administrative policies. The HPA will practice sound evaluation procedures, evaluate and analysis all proposals with a risk vs. reward measuring rule and determine proposals based on best offers. I am recommending that the Board of Directors keep the Mayor and City Council apprised of the process.

- Removed the recommendation on the need for Harrisburg to study a 10 year 100% tax abatement program and instead replace it with the administrations proposed 5 year tax abatement legislation that is presently before City Council for further review, discussions and enactment.;

- The Mayor in 2010 directed the DBHD staff to revise the current Revolving Loans policy and restructure and create a new board and continue the use of the Philadelphia loan portfolio collection system for improving collections on the City's Revolving Loan Fund;
- This Administration has clearly articulated and supports a forensic audit being conducted by THA; and recommends that THA, AGM, the City, and Dauphin County provide adequate resources to the Mayor's Act 47 Plan to hire an independent company to conduct an independent audit.
- Restore the Rebate on Real Estate Tax for Senior Citizens. The City Treasurer shall continue to coordinate with the City's Administration to ensure the all proper procedures and notifications are sent out as deemed appropriate. (pg. 365).
- Remove the requirement to require the Public Works Department to remove bulk waste removal weekly. We will permit using the system that will allow for bulk pick-up on a monthly basis in the community and budget for these services.
- Implement the Mayor's new Blight Initiatives and add 2 additional Code Officers and 2 Building Inspectors to the Bureau to focus on inspections, implementation, enforcement and fines.
- The Mayor's comprehensive Sight/Cite and Right Blight program is directed at proactively converting blighted properties into revenue generating urban development and it contains five fundamental elements which address systemic issues surround blight in the City of Harrisburg.

Each element works toward an overall Right Blight strategy that renews citizen and neighborhood engagement; coordinates City staffs and available resources with measurable goals; updates current City ordinances; increases cooperation with District Justices; fully utilizes state Urban Redevelopment Law and the State's new property maintenance law; and includes the implementation of proposed new City legislative measures.

Taken in total, the Mayor's five-part strategy for converting blight into planned, revenue-generating properties, is the most ambitious and comprehensive program in the history of the City of Harrisburg.

- Removed the establishment of a Home Rule Charter process. If the Public wants this they can place it as a referendum on the ballot. I personally believe that the Capital of Pennsylvania needs to have a Mayor representing their needs and should be elected by the people they govern and not by a hand picked Manager that given the political climate can be fired by a majority of elected officials who often vote not in the interest of the people but rather vindictive politics.

In July of 2007, the Mayor was a member of City Council and the Chair of the Public Works Committee which has oversight of the Incinerator. As the Chair the Committee members agreed that I would facilitate and negotiate conditions with any and all parties relevant to Bills 23 and 24-2007. Of the 21 conditions, I placed the following language in condition #4 "All parties involved in the current incinerator agreement/debacle shall be terminated from City or Authority employment or as consultants." The names of the employees and consultants are being withheld per advice of the Acting Solicitor. Unfortunately, other City Council members denied support for this particular condition claiming that we could be sued for denying said individuals their "ability to make a living"; therefore this condition was removed from the Bills.



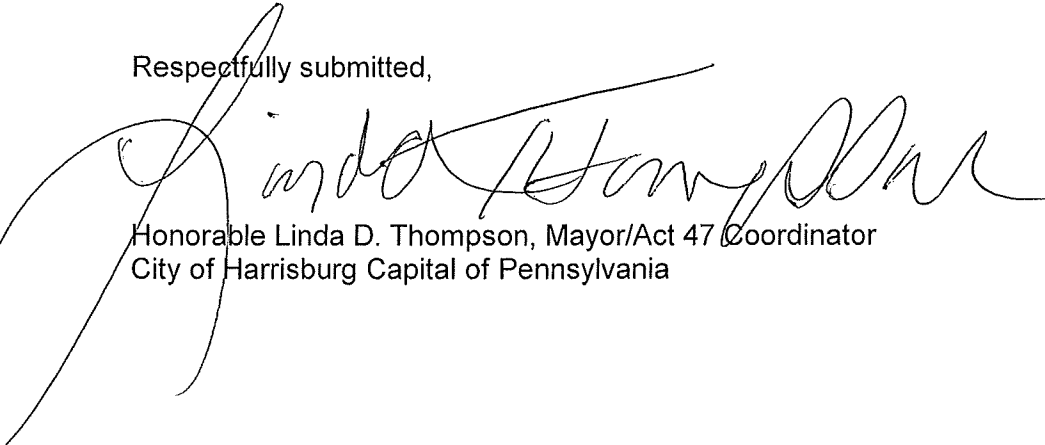
The City was informed at the end of June that the City's application for the Emergency Response (SAFER) Grant Program was approved. If this Recovery Plan is adopted, the City will work with all identified parities to determine if the City can accept the grant and remain in compliance with the Plan.

As City Council and the State deliberates on the Plan it is important to remember that the Plan, while adopted by ordinance, is also a living document and language has been carefully selected in the Mayor's Plan to insure that changes and adjustments will be made as deemed necessary and appropriate based on the need to get to the end result - debt elimination on the RRF and permanent structural deficit elimination within our City government. The role of a Mayor as the Act 47 Coordinator is a first, and therefore we are navigating through uncharted waters. However, I will request that the State permit this Administration the necessary technical support by providing the Administration a coordinator along with the revenue to insure thorough and complete implementation of my Plan. I will request that all stakeholders seek to work with the Mayor to review and make adjustments to changing conditions while the City remains in the Act 47 Program.

The fiscal integrity of the Mayor's Act 47 Plan is intact with the revisions and additions that the Mayor's Plan offers which I believe provides a structured plan for restoring fiscal stability to the Capital City.

The fiscal integrity of the Mayor's Act 47 Plan remains intact, including all additional revisions and additions.

Respectfully submitted,



Honorable Linda D. Thompson, Mayor/Act 47 Coordinator  
City of Harrisburg Capital of Pennsylvania