

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

C. Alan Walker, in his capacity as Secretary :
of the Commonwealth of Pennsylvania Department :
of Community and Economic Development, :
Petitioner : No. 569 M.D. 2011
v. :
City of Harrisburg, :
Respondent :

OBJECTIONS TO PLAN OF RECOVERY

AND NOW comes Daniel C. Miller, pursuant to the Municipal Finance Recovery Act, 53 P.S. § 11701.101 et seq., and objects to the City of Harrisburg Recovery Plan, , as follows:

1. A plan for recovery for the City of Harrisburg was filed on or about August 26, 2013, approved by the Harrisburg City Council on September 16, 2013, and presented to this Court on September 19, 2013.

2. The Objector objects, initially, on due process grounds to the procedure governing these objections. Objector, acting pro se, believes that he has 30 days from the date of the confirmation of the Plan in which to file objections to the plan, or alternatively, that he had 30 days from the date the plan was filed, which, upon information and belief, was on August 26, 2013, and that he has not been provided with an adequate opportunity to file these objections. Objector believes that there are other interested persons and/or parties who also have been denied a full and fair opportunity to file objections to the referenced plan, and that the plan is objectionable on grounds beyond the face of these objections, including the failure to adequately protect the interests of the taxpaying citizens and residents of the City of Harrisburg. A full and fair opportunity for all interested persons and parties should specifically be provided.

3. Objector notes that the Court suggested that the time for filing objections has passed, and that no objections have been filed; however, Objector was denied the chance to present pertinent information in court on September 19, 2013, and files these objections accordingly. Objector had also objected to the plan in March 2012 and was allowed to testify, and today was merely an amendment to the original plan, and

opposed the ratification of the Plan by the Harrisburg City Council on September 16, 2013, and presumed that the March, 2012 objection was still open, as it had not been resolved.

4. Objector objects on the same basis as he did in March, 2012, and that is that the plan is not comprehensive and sustainable. Objector has grave concerns that this plan will not enable the City to balance its budget for the three years described or the thirty-seven not mentioned. While Objector has concerns that many of the estimated increases and decreases presented in the plan may be incorrect, Objector accepts them for purposes of this analysis. Objector believes, however, the original revenue starting point is in error.

5. Objector's analysis begins with the 2012 actual revenue, the most recently completed year, and makes all relevant adjustments including the plan assumptions for year 2014. The plan states total revenue as \$60.3M however we believe it to be \$55.9M. The major differences are that the plan includes items that we believe will not be received, processing fees from sewer and water (the city will no longer be processing after 1/1/14) and a one-time \$1.75M grant received only in 2012. These items along with other minor items account for the \$4.4M reduction in stated plan revenue. This variance is significant and changes a \$0.4M surplus into a \$4.0M deficit.

6. The plan budget also does not sufficiently address the potential Verizon expense of \$7.4M beginning annually in 2017 or the \$11.7M annual OPEB expense. Both of these items have significant negative budget consequences.

7. It is Objector's view that, with the sale and transfer of municipally owned assets, the burden is placed disproportionately on the residents and taxpayers of the city.

8. The plan dismantles city government by removing control of basic city functions from the city's residents. It reinforces the misperception that residents of a majority minority city can't govern themselves. This suggests arbitrariness and caprice.

9. The plan also does not call for any real concessions from AGM or Dauphin County, and minimal to no concessions from others. It is not fair in a shared plan, and reflects arbitrariness and caprice.

10. The plan further leaves other debt issues unresolved insofar as it The plan does not address the potential \$7.4 million annual debt service due from the City Guaranteed Harrisburg Redevelopment Authority for the Verizon building beginning in 2017. The plan doesn't address the shortfall on stadium bond payments. The plan doesn't contemplate the loss of parking revenue which would be due in the event of a Harrisburg University debt default.

11. The Receiver's plan may result in considerable liability after the sale of the incinerator to the LCSWMA. The city is party to a long term contract that requires it to produce a minimum amount of tonnage, 35,000 tons annually at \$190 per ton, to the LCSWMA. Increases in recycling or reductions in solid waste for any other reason still leaves the city financially obligated for the contracted amount, a minimum of \$6,650,000 annually. There was also no site assessment done for the incinerator.

12. As if these issues were not troubling enough, the plan projects very little future revenue to go to the city's general fund where the city's democratically elected officials determine the best use of this revenue for the benefit of the citizens of Harrisburg. Rather, the plan generously funds non-city controlled entities that don't answer to the residents of the city. The \$3.7 million the plan assigns for OPEB debt (retirees health insurance) is insignificant in comparison to the \$180 million unfunded liability.

13. The Receiver's plan balances the city budget with smoke, mirrors and uncertainty. Although recent history has proven the state subsidy to be unreliable, the plan relies on \$5 million annually from the Commonwealth. The plan relies on \$4 million in savings from union contracts that have not yet been achieved. Although the 100% increase in the city's EIT is only scheduled to last until 2016, the likelihood that it will become permanent can't be ignored. Other distressed communities in the Act 47 program have seen their EIT increased to 3.4% and more.

14. The plan also does not adequately address whether bankruptcy would have been a better economic option for the City.

15. The attached analysis supports all of the foregoing concerns, and also indicates concerns with the plan budget assumptions that are troubling. Objector also attaches a copy of his September 11, 2013 correspondence to the Harrisburg City Council.

16. Objector requests the opportunity to appear and testify in regard to all of the foregoing, and to be available to assist in any way possible to find solutions to Harrisburg's unfortunate financial crisis.

17. Objector reserves the right to supplement these objections, join in the objections of others, or otherwise present filings and/or evidence in regard to the City of Harrisburg Recovery Plan.

WHEREFORE, Objector requests a further hearing be scheduled to consider these, and any other objections, to the referenced recovery plan.

Respectfully Submitted,

Daniel C. Miller